

ORIGINAL



Transcript Exhibit(s)

Docket #(s): W-20689A-11-0252

W-20810A-11-0252

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Arizona Corporation Commission

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Exhibit #: A1-A8, S1

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ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

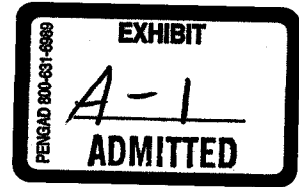
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BEFORE THE ARIZONA CORPORATION COMMISSION

**COMMISSIONERS**

**GARY PIERCE, Chairman**  
**BOB STUMP**  
**SANDRA D. KENNEDY**  
**PAUL NEWMAN**  
**BRENDA BURNS**



IN THE MATTER OF (i) THE APPLICATION )  
OF GARY SMYTH, AN INDIVIDUAL, TO ) DOCKET NO. W-04236A-\_\_ -\_\_  
TRANSFER WATER SYSTEM ASSETS AND )  
CERTIFICATE OF CONVENIENCE AND ) APPLICATION(S) FOR (i)  
NECESSITY TO TIERRA LINDA WATER ) AUTHORIZATION TO TRANSFER  
COMPANY, INC.; AND, (ii) THE ) WATER SYSTEM ASSETS, AND (ii)  
APPLICATION OF TIERRA LINDA WATER ) AUTHORIZATION TO ISSUE  
COMPANY, INC. FOR AUTHORIZATION TO ) STOCK TO ACQUIRE WATER  
ISSUE STOCK TO ACQUIRE SAID WATER ) SYSTEM ASSETS  
SYSTEM ASSETS AND CERTIFICATE OF )  
CONVENIENCE AND NECESSITY )

**I.**

**SUMMARY OF APPLICATION(S)**

Pursuant to A.A.C. R14-2-402(D), Gary Smyth ("Smyth"), an individual, files his Application for an appropriate order from the Commission authorizing him to transfer the water system assets and certificate of convenience and necessity ("CC&N") which were the subject of the Commission's December 10, 2010 Decision No. 72002 in Docket Nos. W-02689A-00-0327 and W-0436A-09-0327 to Tierra Linda Water Company, Inc. ("Tierra Linda"), a recently organized for-profit Arizona corporation.

Pursuant to A.R.S. §§ 40-301 et seq. Tierra Linda files its Application for an appropriate order from the Commission authorizing Tierra Linda to issue 501 shares of its common stock to Smyth in consideration of the transfer of the aforesaid water system assets and CC&N to Tierra Linda.

II.

BACKGROUND CIRCUMSTANCES TO INSTANT APPLICATION(S)

A. Satisfaction of Decision No. 72002 Compliance Conditions.

On December 10, 2010 the Commission issued its Decision No. 72002 authorizing Smyth to acquire the water system assets and CC&N previously owned by Tierra Linda Homeowners Association, Inc. ("HOA"). Decision No. 72002 contained six (6) compliance conditions which either have been or soon will be satisfied.

First, and pursuant to the Second Ordering Paragraph in Decision No. 72002,<sup>1</sup> Smyth has been charging the rates and charges for water service previously authorized by the Commission for the HOA since the sale of the HOA's water system assets to Smyth closed on April 11, 2011.

Second, and pursuant to the Third Ordering Paragraph of Decision No. 72002, on June 17, 2011 Smyth transmitted to the Commission's Docket Control and the Compliance Section in the Commission's Utilities Division copies of the documentation transferring ownership of the HOA's water system assets to Smyth.

Third, and pursuant to the Fourth Ordering Paragraph of Decision No. 72002, on June 17, 2011 Smyth transmitted to the Commission's Docket Control and the Compliance Section in the Commission's Utilities Division a copy of an electronic communication from the United States Department of Veterans Affairs ("Veterans Affairs") indicating that Veterans Affairs had concluded that

"Planned Urban Developments [such as the Tierra Linda Nueva Subdivision] no longer require approvals. Only condominium projects would require us [Veterans Affairs] to review any changes to the HOA legal documentation."<sup>2</sup>

As a consequence, the previously contemplated need for Veterans Affairs approval of an amendment to the HOA's CC&Rs, which would allow sale of the water system assets to Smyth, has been obviated.

<sup>1</sup> The First Ordering Paragraph in Decision No. 72002 approved the sale of the HOA's water system assets and the transfer of its CC&N to Smyth, subject to compliance with the conditions set forth in the Second through Seventh Ordering Paragraphs of that decision.

<sup>2</sup> Decision No. 72002 referred to the Veterans Administration, which name has been changed to the United States Department of Veterans Affairs.

1 Fourth, and with reference to the Fifth Ordering Paragraph of Decision No. 72002,  
2 following the Closing of the asset transfer transaction with the HOA on April 11, 2011, Smyth  
3 inquired of Pima County as to whether it preferred that the HOA's Public Utility License  
4 Agreement with the HOA be initially transferred to Smyth as an individual or directly to a new  
5 corporation that Smyth had formed to ultimately own and operate the water system assets he had  
6 acquired from the HOA pursuant to Decision No. 72002.<sup>3</sup> Pima County responded that it would  
7 prefer that Smyth pursue the latter course of action in the interest of administrative efficiency.  
8 Accordingly, on May 31, 2011, Tierra Linda filed a Public Utility License Application with Pima  
9 County. A copy of that Application, and the accompanying form of Public Utility License  
10 Agreement, as executed by Tierra Linda, is attached hereto as Appendix "A" and is incorporated  
11 herein by this reference. Copies of the Public Utility License Agreement, following execution by  
12 Pima County, will be filed with the Commission's Docket Control following Smyth and Tierra  
13 Linda's receipt of the same.<sup>4</sup>

14 Fifth, and pursuant to the Sixth Ordering Paragraph of Decision No. 72002, the HOA  
15 filed a proposed Curtailment Plan Tariff with the Commission's Docket Control and the  
16 Compliance Section in the Commission's Utilities Division on January 20, 2011. This filing was  
17 made by the HOA rather than Smyth, because the water system asset transfer had not occurred  
18 and could not occur within the forty-five (45)-day compliance filing deadline prescribed in the  
19 Sixth Ordering Paragraph. On May 20, 2011 the Commission's Utilities Division advised the  
20 undersigned counsel by letter that the aforesaid Curtailment Plan Tariff had been approved as  
21 being in compliance with Decision No. 72002, with an effective date of December 10, 2010. A  
22 copy of the May 20, 2011 letter is attached hereto as Appendix "B" and is incorporated herein by  
23 this reference.

24  
25  
26 <sup>3</sup> The circumstances surrounding Smyth's decision to form a new corporation for such purpose are discussed in  
27 Section II(B) and (C) below. As therein noted, Tierra Linda is the new corporation which Smyth organized.

28 <sup>4</sup> In the event that the Commission does not authorize the transfer of water system and assets to Tierra Linda, which  
is the subject of these Application(s), Tierra Linda will assign such Public Utility License Agreement as it receives  
from Pima County to Smyth.

1 Sixth, and pursuant to the Seventh Ordering Paragraph of Decision No. 72002, on March  
2 11, 2011 the HOA filed its 2010 Utilities Division Annual Report for the water system  
3 subsequently transferred to Smyth. Page 12 (Water Use Data Sheet) of the report indicates that  
4 the water system loss for 2010 was on the order of eight percent (8%), which is below the ten  
5 percent (10%) ceiling established by the Commission in Decision No. 72002. Thus, Smyth and  
6 Tierra Linda believe that this condition has been satisfied as well.

7  
8 As a consequence of the foregoing, and as previously noted, Applicants believe that each  
9 of the six (6) compliance conditions set forth in the Second through Seventh Ordering  
10 Paragraphs of Decision No. 72002 either has been or soon will be satisfied.

11 **B. Change in Smyth's Ownership Preference; and Smyth's Application.**

12 Subsequent to the December 10, 2010 issuance of Decision No. 72002, but prior to the  
13 April 11, 2011 Closing of the water system asset transfer transaction which was the subject  
14 thereof, Smyth concluded that he would prefer to own and operate the water system assets in  
15 question through an "S" corporation structure. However, after consultation with the undersigned  
16 counsel and the undersigned's consultation with other counsel who are also conversant with the  
17 requirements of Title 40 of the Arizona Revised Statutes and the Commission's rules and  
18 regulations, it was concluded that the water system assets and the CC&N could not be transferred  
19 directly from the HOA to the new corporation which Smyth wished to form. Rather, (i) those  
20 assets and the CC&N would first have to be transferred to Smyth pursuant to Decision No.  
21 72002; and, (ii) thereafter, they could be transferred to the new corporation by Smyth, subject to  
22 the receipt of prior authorization to that effect from the Commission in response to a separate  
23 application from Smyth. Accordingly, Smyth's Application herein is intended to achieve that  
24 result.

25 **C. Formation of New Corporation; and, Tierra Linda's Application.**

26 On April 18, 2011, the Commission's Corporations Division approved the Articles of  
27 Incorporation for Tierra Linda,<sup>5</sup> which previously had been filed on Smyth's behalf. A copy of  
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<sup>5</sup> As noted in Section I above, the complete corporate name of Tierra Linda is Tierra Linda Water Company, Inc.

1 Tierra Linda's approved Articles of Incorporation is attached hereto as Appendix "C" and is  
2 incorporated herein by this reference. As may be noted therefrom, Smyth is both a Director and  
3 the President of Tierra Linda. In addition, the corporation's Articles of Incorporation authorize it  
4 to issue up to 1,000 shares of common stock. In that regard, Smyth has contemplated the  
5 issuance of 501 shares of common stock by Tierra Linda as consideration for his transfer of the  
6 water system assets and CC&N acquired by him from the HOA to Tierra Linda. This level of  
7 ownership also would insure his control of Tierra Linda.

8 However, because Tierra Linda would become a public service corporation under  
9 Arizona law by reason of its acquisition and operation of the aforesaid water system assets and  
10 CC&N, Smyth and Tierra Linda have concluded that it is appropriate (if not mandatory) that  
11 Tierra Linda receive prior authorization from the Commission pursuant to A.R.S. § 40-301 et  
12 seq. before Tierra Linda issues any of its stock for the aforesaid purpose. In the event of such  
13 authorization and issuance, Smyth would become the sole shareholder and owner of Tierra  
14 Linda's outstanding stock, and Tierra Linda would become the owner of the water system assets  
15 and CC&N recently acquired by Smyth from the HOA. Accordingly, Tierra Linda's Application  
16 herein is intended to achieve that result.

### 17 III.

#### 18 COMPLIANCE WITH A.A.C. R14-2-402(D)

##### 19 A. Compliance with A.A.C. R14-2-401(D)(2)(a) and (d).

20 Smyth's contact information is as follows:

21 Gary Smyth  
22 P.O. Box 14858  
23 Tucson, Arizona 85732  
24 Phone: (520) 398-9815  
Fax: (520) 838-8778

25 Tierra Linda's contact information is as follows:

26 Tierra Linda Water Company, Inc.  
27 P.O. Box 14858  
28 Tucson, Arizona 85732  
Phone: (520) 495-5771  
Fax: (520) 838-8778

1 **B. Compliance with A.A.C. R14-2-(D)(2)(b).**

2 Attached hereto as Appendix "D" and incorporated herein by this reference is a list of the  
3 water system assets acquired by Smyth from the HOA, which Smyth herein proposes to transfer  
4 to Tierra Linda.

5 **C. Compliance with A.A.C. R14-402(D) (2)(c).**

6 Given that Smyth only acquired the water system assets previously owned by the HOA  
7 on April 11, 2011, he does not as yet have a 12-month accounting period upon which he could  
8 predicate an income statement relating to his ownership and operation of those water system  
9 assets. However, in support of his financial condition and substantial solvency, attached hereto  
10 as Appendix "E" and incorporated herein by this reference is a copy of Smyth's personal  
11 financial statement as of April 28, 2011.

12 **D. Compliance with A.A.C. R14-402(D) (2)(e).**

13 A description of the terms and conditions of the proposed transfer of the water system  
14 assets acquired by Smyth from the HOA to Tierra Linda is set forth in Sections I and II above of  
15 the Instant Application(s).

16 **E. Compliance with A.A.C. R14-402(D) (2)(f).**

17 Commission authorization of the proposed transfer of the subject water system assets  
18 would not change in any manner the nature of the water utility services which would otherwise  
19 be provided by Smyth as an individual owning and operating the water system assets in question.  
20 In that regard, and with reference to page 4, lines 17-19 of Decision No. 72002, Smyth will  
21 continue to provide the funding for such arsenic treatment system as may prove to be necessary.  
22 Recent test samples have shown an arsenic concentration level below the EPA concentration  
23 limit.

24 **F. Compliance with A.A.C. R14-402(D) (2)(g).**

25 The financing of the proposed transaction of the subject water system assets would be  
26 accomplished by Tierra Linda's issuance of 501 shares of its common stock to Smyth, as  
27  
28

discussed in Sections 1 and II above of the Instant Application(s), subject to prior authorization from the Commission pursuant to A.R.S. § 40-301 et seq.

**G. Compliance with A.A.C. R14-402(D) (2)(h).**

Just as Smyth's acquisition of the HOA's water system assets did not have any effect upon any other water utility, the transfer of those water system assets to Tierra Linda, as proposed in the Instant Application(s), will not have any effect on any other water utility.

**H. Compliance with A.A.C. R14-402(D) (2)(i) and (j).**

Commission authorization of the water system assets transfer herein proposed would affect the same approximately 60 customers who were the subject of the water system assets transfer authorized in Decision No. 72002. In addition, approval of the proposed transfer will not have any effect on the caliber of water service received by said customers. For all practical purposes, the water system assets will continue to be owned and operated by Smyth.

**IV.**

**SATISFACTION OF "FIT AND PROPER" STANDARD**

A review of Decision No. 72002 (and particularly page 3, line 15 – page 4, line 8) readily discloses that the Commission found Smyth "fit and proper" to acquire the water system assets then owned and operated by the HOA. A similar determination presumably would also be applicable to Tierra Linda, given that Smyth would become the sole shareholder and owner of that corporation in the event that the authorization(s) requested in the Instant Application(s) are granted by the Commission. In that regard, and in connection with its consideration of and decision upon the Instant Application(s), Smyth and Tierra Linda hereby request that the Commission take "official notice" of its Decision No. 72002 and the evidentiary record underlying said decision as it pertains to relevant matters raised by the Instant Application(s).



LAWRENCE V. ROBERTSON, JR.  
ATTORNEY AT LAW  
P.O. Box 1448  
Tubac, Arizona 85646  
(520) 398-0411

V.

CONCLUSION

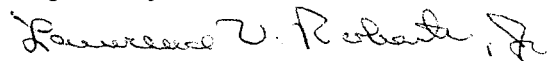
Based upon the circumstances and reasons discussed in Sections I through IV above of the Instant Application(s), Smyth and Tierra Linda hereby request that the Commission issue an appropriate order or orders providing for the following:

- 1) Authorizing Smyth to transfer to Tierra Linda the water system assets listed in Appendix "C" hereto;
- 2) Transferring the CC&N relating to such water system assets from Smyth to Tierra Linda;
- 3) Authorizing Tierra Linda to issue and convey to Smyth 501 shares of Tierra Linda's authorized 1,000 shares of common stock as consideration for the water system assets to be transferred to Tierra Linda by Smyth; and,
- 4) Such other and further relief as determined to be appropriate.

In addition, and in connection with the foregoing, Smyth and Tierra Linda request that the Commission consider issuing the aforesaid order or orders without the necessity of a hearing, given the relatively recent issuance of Decision No. 72002 and the relative recency of development of the underlying evidentiary record supporting that decision.

Dated this 22<sup>nd</sup> of June 2011.

Respectfully submitted,



Lawrence V. Robertson, Jr.  
Attorney for Gary Smyth and  
Tierra Linda Water Company, Inc.

The original and thirteen (13) copies of the foregoing Application will be mailed for filing the 23<sup>rd</sup> day of June 2011 to:

Docket Control  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007


LAWRENCE V. ROBERTSON, JR.  
ATTORNEY AT LAW  
P.O. Box 1448  
Tubac, Arizona 85646  
(520) 398-0411

1 A copy of the foregoing Application will be  
2 emailed or mailed that same date to:

3 Lyn A. Farmer,  
4 Chief Administrative Law Judge  
Hearing Division  
5 Arizona Corporation Commission  
1200 West Washington Street  
6 Phoenix, Arizona 85007

7 Steve Olea, Director  
8 Utilities Division  
Arizona Corporation Commission  
9 1200 West Washington Street  
Phoenix, Arizona 85007

10  
11 Janice M. Alward, Chief Legal Counsel  
Legal Division  
12 Arizona Corporation Commission  
1200 W Washington  
13 Phoenix, AZ 85007-2927

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# **Appendix “A”**

## PUBLIC UTILITY LICENSE APPLICATION

### APPLICANT INFORMATION:

Name of Licensee: Tierra Linda Water Company, Inc.

Contact Person: Lisa Sullivan


Title: V.P.

Phone: (520) 495-5771 Fax Number: (520) 838-8778

E-Mail Address: lisa@smythindustries.com

Address: PO Box 14858

City/State/Zip: Tucson, AZ 85732



Signature

5/31/11

Date

## PIMA COUNTY PUBLIC UTILITY LICENSE AGREEMENT

WHEREAS, this License Agreement is entered into between Pima County, a political subdivision of the State of Arizona (hereinafter "County"), and Tierra Linda Water Company, Inc., an Arizona corporation (hereinafter "Licensee"); and

WHEREAS, Licensee has applied and petitioned to the Board of Supervisors of the County for the right and privilege to construct, install, maintain, and operate Licensee's facilities within the public rights-of-way within Pima County and outside the confines of any incorporated city or town as required by A.R.S. § 40-283; and

WHEREAS, notice of the County's intent to enter into this agreement has been duly given as required by law; and

WHEREAS, said application came before the Board of Supervisors of the County of Pima, State of Arizona, and no petition to the Board of Supervisors to deny such privilege was filed or presented to the Board; and

WHEREAS, it being determined by the Board of Supervisors that the granting of this License is authorized by law and in the best interests of Pima County and the inhabitants thereof;

THEREFORE, the County and Licensee agree to the following:

**Section 1. Grant of License.** Licensee is hereby authorized and empowered, on a non-exclusive basis, to use all County public rights-of-way now existing or hereafter established and lying within the unincorporated areas of Pima County, under the terms and conditions set forth herein, for the purpose of installing, repairing, replacing, and maintaining its facilities.

**Section 2. Term.** This License is granted for a term of fifteen (15) years from the date this License is approved by the Board of Supervisors and extinguishes, supersedes and replaces all preceding franchises or licenses granted to Licensee by County.

**Section 3. Regulation of County Rights-of-Way.** All rights hereunder are granted under the express condition that County shall have the power at any time to impose restrictions and limitations, and to make regulations as to Licensee's use of the County's rights-of-way as may be deemed best for the public interests, safety or welfare.

**Section 4. Superior Rights.** The rights of County in and to the use of all public rights-of-way located within the unincorporated areas of Pima County are and forever shall be paramount and superior to the rights of Licensee.

**Section 5. Alteration of Public Rights-of-Way.** Nothing in this License shall be construed to prevent County from, altering, improving, adjusting, repairing, or maintaining its facilities and public rights-of-way and for that purpose to require Licensee to adjust, remove, replace or relocate Licensee's facilities to accommodate or facilitate the County's use of its facilities or rights-of-way. Facilities of Licensee shall mean any physical object or improvement owned, possessed, made, installed, constructed or maintained by Licensee or made, installed or constructed by County or others at the request of Licensee. Facilities of County shall mean any physical object or improvement owned, possessed, made, installed, maintained or constructed by County or others at the request of County, including all paving, highway, transportation, flood control and wastewater facilities located within County rights-of-way.

**Section 6. Non-Exclusive Use.** Nothing in this agreement shall be construed to grant Licensee an exclusive right to use the public rights-of-way. Licensee's facilities shall be erected, adjusted, installed, replaced, removed, relocated and maintained in a manner that will not interfere with the reasonable use of the public rights-of-way by the public, the County, or any other franchisee or licensee. The location of Licensee's facilities in the public rights-of-way shall not create or establish a vested interest in the rights-of-way and its facilities shall be removed or relocated by Licensee whenever County determines that Licensee's facilities impact, restrict, obstruct or hinder the County or the public's existing or future use of the rights-of-way or the County's operation or location of County facilities.

**Section 7. Relocation.** Licensee shall be solely responsible for the design, adjustment, removal or relocation, temporarily or permanently, of all Licensee's facilities that impact, conflict or interfere with the County's use of its rights-of-way or the County's improvement, relocation or adjustment of any facilities located in County rights-of-way. The cost of designing, adjusting, removing, relocating or replacing Licensee's facilities shall be Licensee's sole responsibility, unless Licensee has established prior rights with the County for the facilities to be affected. Prior to beginning any activity in the County rights-of-way, Licensee shall obtain all required permits from the County and any other applicable jurisdiction for the activity. The Licensee's facilities shall be adjusted, removed, replaced or relocated by Licensee in accordance with an activity schedule determined by County and provided to Licensee within a reasonable period of time prior to the scheduled activity start date. If the schedule is unacceptable to the Licensee or Licensee finds it necessary to plead financial hardship regarding the cost of relocating its facilities, the Licensee may appeal to the Board of Supervisors. If Licensee's facilities are not adjusted, removed, replaced or relocated within the time period allotted by the County's activity schedule, County may, at its discretion, adjust or relocate Licensee's facilities. Licensee hereby agrees to be liable for all costs incurred by County for the adjustment or relocation of Licensee's facilities necessitated by County's activities, including overhead and maintenance costs and an administrative surcharge in the amount of fifteen (15) percent of the total cost attributed to the adjustment or relocation of Licensee's facilities. In the event County incurs such costs, County shall submit a bill to Licensee for the incurred costs, and Licensee shall pay County the invoiced amount within ninety (90) calendar days of receipt of the invoice. If the invoice is not timely

paid by Licensee, all rights granted to Licensee under this agreement shall be suspended and no permits will be issued to Licensee for any work within the County rights-of-way until the invoiced costs are paid in full to County.

**Section 8. Undergrounding.** The parties acknowledge that County has the authority to require Licensee to underground its above ground facilities in County rights-of-way when the County determines that undergrounding of Licensee's facilities is necessary to conform to existing County Ordinances or is in the public interest. The County may require Licensee to conduct a study of the cost of undergrounding any portion or segment of Licensee's facilities located in the County rights-of-way. The study shall set forth an estimate of the costs of undergrounding Licensee's facilities including a breakdown of the cost allocated to labor, material, design and construction for converting above ground facilities to underground facilities. The Licensee shall submit a cost study for any specified segment of Licensee's facilities within ninety (90) calendar days after receiving written notice from County requesting the cost study. The cost of preparing and providing any cost study requested by County shall be borne by the Licensee.

**Section 9. Scenic Routes.** The installation of Licensee's facilities within any public rights-of-way designated by the Board of Supervisors as a scenic route must be constructed in accordance with the County's Scenic Routes Ordinance.

**Section 10. Performance of Work.** The work required by Licensee to design, construct, reconstruct, pothole for design, adjust, relocate, replace or repair Licensee's facilities shall be Licensee's sole responsibility. The cost of any delays to County projects caused by Licensee's failure to complete its work in accordance with the County's activity schedule shall be the Licensee's sole responsibility. In the event County incurs such costs, County shall submit a bill to Licensee for the incurred costs and Licensee shall pay County the invoiced amount within ninety (90) calendar days of receipt of the invoice. If the invoice is not timely paid by Licensee, all rights granted to Licensee under this agreement shall be suspended and no permits will be issued to Licensee for any work within the County rights-of-way until the invoiced costs are paid in full to County.

**Section 11. Location of Facilities.** As a condition of this License, Licensee hereby agrees to have and maintain precise, up-to-date maps of Licensee's facilities located in County rights-of-way and to make this information available to County within fifteen (15) calendar days of receiving a written request from the County. Beginning on the effective date of this Agreement, Licensee shall maintain precise and verifiable horizontal and vertical location information tied to an accepted County datum and provide such information to the County within fifteen (15) calendar days of receiving written notice from County. As a condition of the issuance of this License, Licensee agrees to provide surface location marking of Licensee's undergrounded facilities located within the public rights-of-way within two working days of a request from the County. In the event the Licensee is unable to provide the location information to County within the allotted time frame, County may, at its discretion, locate Licensee's facilities and Licensee shall be liable for the cost incurred in locating Licensee's facilities.

## **Section 12. Work in Rights-of-Way.**

12.1. *Damage to other facilities.* In the construction, adjustment, removal, relocation, repair, operation and maintenance of its facilities, Licensee shall avoid causing or permitting any damage, disturbance or unnecessary modification or alteration to County facilities including pavement, or the facilities of others, located in the County rights-of-way. If Licensee causes or permits any such damage, disturbance or unnecessary alteration or modification, Licensee, at its sole expense and in a manner approved by the County Engineer, shall restore the damaged, disturbed, altered, or modified facilities to the condition in which they existed before being damaged, disturbed, modified, or altered. Licensee shall also be liable to owners of said facilities for any other losses or expenses which may accrue because of said damage, disturbance, modification or alteration. The restoration of facilities shall be initiated promptly and completed expeditiously by Licensee, who shall give priority to the restoration, repair or replacement of such facilities over all non-emergency activities of Licensee.

12.2. *Damage to vegetation.* In the construction, adjustment, removal, relocation, repair, operation and maintenance of its facilities, Licensee shall use all necessary care to avoid any damage to or disturbance of existing vegetation in the public rights-of-way. If Licensee causes or permits any such damage or disturbance, Licensee shall re-vegetate the rights-of-way at its sole expense and in accordance with all County regulations then in effect.

12.3. *Adjacent properties.* Licensee shall provide prior written notice to the owners or residents of adjoining properties of any activity of Licensee which may temporarily interfere with access to or use of said adjoining property. Licensee shall maintain access to adjoining properties during all construction activities or other operations, unless the requirement of access is waived in writing by the owners and residents of adjoining properties. If an emergency requires activity without written notice, Licensee shall use its best efforts to provide timely actual notice to the owners and residents of the adjoining properties.

## **Section 13. Design and Location of Facilities.**

13.1. Licensee shall use reasonable care at all times to avoid damage or injury to persons and property during the construction, adjustment, removal, relocation, repair, operation and maintenance of Licensee's facilities.

13.2. The location and construction of Licensee's facilities in public rights-of-way shall conform to County standards and guidelines then in effect and as may be directed by County, in order not to interfere with a planned future use of the public rights-of-way by the County.

13.3. Licensee's facilities shall be located in a manner designed to cause the least amount of interference with the public's existing or future use of roads, streets, alleys and other public rights-of-way and in such a way as will minimize interference with the rights and convenience of adjacent property owners.

13.4. County may require Licensee to remove, relocate or underground, at Licensee's sole expense, any of Licensee's facilities that present a potential hazard to the public, that



interfere with the public's use of the public rights-of-way, or are determined by County to be aesthetically undesirable.

13.5. Licensee shall be responsible for notifying owners or residents of adjoining properties in writing about permanent or temporary above or below ground facilities to be constructed in the County rights-of-way. Licensee shall make every reasonable effort to resolve the concerns of property owners and residents regarding the construction of Licensee's facilities. Should the County determine that Licensee failed to reasonably evaluate all options available to alleviate residents concerns, County may require the Licensee to relocate its facilities at Licensee's sole expense.

13.6. Licensee shall be responsible for the cost to excavate in a "careful and prudent manner" Licensee's underground facilities pursuant to A.R.S. § 40-360.21 and § 40-360.22A on all County construction projects occurring within County rights-of-way.

**Section 14. Construction Safety.** Any opening or obstruction in the public rights-of-way caused by Licensee during the course of Licensee's activities in the rights-of-way shall be guarded and protected at all times by safety barriers erected by Licensee which shall be clearly designated by warning lights during periods of dusk and darkness. Any work performed by Licensee in or adjacent to a public roadway open for travel shall be properly signed and marked by Licensee with warning and directional devices in accordance with all applicable state and local traffic regulations and in accordance with the Arizona Department of Transportation's Traffic Control Manual for Highway Construction and Maintenance.

**Section 15. Drainage.** During construction or excavation in the public rights-of-way, Licensee shall provide proper drainage so that the public rights-of-way will be free from standing surface water and adequately drained so as not to cause flood or erosion damage to the facilities of the County or surrounding property. Licensee may be required, at the request of the County, to submit drainage engineering data and design plans to the County for review and approval prior to the issuance of any Right-of-Way Use Permit by County.

**Section 16. Issuance of Permit not County Approval.** County's review, approval or acceptance of plans or specifications or issuance of a permit for the installation, construction or location of a facility by Licensee shall not be construed to be an authorization for or approval of a violation of any federal, state or local law or regulation, or any industry standard, pertaining to the location or construction of a utility facility in public rights-of-way. No permit or approval presuming to give such authority shall be valid or otherwise relieve Licensee of its obligations under this License regarding the location and construction of facilities.

**Section 17. County Inspection.** County, if it deems necessary, has the right to inspect any work by Licensee in the public rights-of-way to insure proper performance of the terms of this License and conformance with any applicable federal, state and local laws, ordinances and regulations. County may require Licensee to pay a reasonable and uniform fee to cover the actual costs of inspections performed by County or its contractor under this provision. County may, at its discretion, pothole Licensee's facilities to verify conformance with *Section 11. Location of Facilities* of this License. Licensee shall be liable for the cost of potholing and an

administrative surcharge in the amount of fifteen (15) percent of the total cost of potholing should Licensee's facilities be out of conformance. Licensee shall be responsible for taking corrective action to bring as-builts into conformance with verified facilities.

**Section 18. Abandonment of Facilities.** Abandonment in place, of any of Licensee's facilities located within the County rights-of-way may only occur by acquiring written approval from the County.

**Section 19. Liability and Indemnity.** Licensee acknowledges its sole liability for its facilities installed in the public rights-of-way and for any activities it performs within the public rights-of-way. Licensee agrees to indemnify, hold harmless, and defend the County, its officials, agents, servants, and employees against all claims for injuries to persons or damage to property arising out of Licensee's work in the public rights-of-way or due to the existence of Licensee's facilities in the public rights-of-way, or in any way related to Licensee's exercise of its rights under this License. Neither the issuance of a County permit for installation or location of a facility, nor County approval of the activity, installation or location, nor the failure of the County to direct Licensee to take any precautions or make any changes or to refrain from doing anything shall excuse Licensee of its responsibilities hereunder to County or others in the case of any injury to persons or damage to property. If County is sued in any court by any person, firm, association or corporation to recover damages for injuries to person or property on account of the installation, repairing, operation and maintenance of facilities of Licensee, Licensee shall defend all such suits and pay any resulting judgments and shall, at the option of County, be made a party to any such court proceeding.

**Section 20. County Participation in Legal Actions.** The County shall have the right at all times to take part in any suit or action instituted by or against Licensee in which any judgment or decree can be rendered or foreclosing any lien on any of Licensee's property situated within public rights-of-way, or affecting the rights, powers or duties of Licensee to do or not to do anything which by this License it may be required to do or not to do, and also to take such steps as the County may deem essential to protect the interests of County or the public interest. County shall have the right to intervene in any suit, action, or proceeding by any person or persons, firm or corporation seeking to enjoin, restrain, or in any manner interfere with Licensee in the performance or observance by it of any of the terms or conditions of this License, or any regulation, notice or direction of County in such connection, or which involves or might involve the constitutionality, validity or enforcement of this License. County may also move for dissolution of any such injunction or restraining order or take any other appropriate step, in any such suit, action or proceeding which it may deem necessary or advisable to protect its interests.

**Section 21. Compliance with License Conditions and Ordinances.** Licensee agrees to conform to, abide by, and perform all the conditions, provisions, requirements, and limitations in this License Agreement. Licensee shall be subject to all County ordinances now in force or hereafter adopted, including all ordinances relating to the use of public rights-of-way by utilities. Licensee agrees that it will not assert any claim against the County that the provisions of this License or any applicable County ordinance or regulation in force at the time of execution of this License are unreasonable, arbitrary or void.

**Section 22. Non-Exclusive License.** This License and the privileges granted herein shall not be exclusive. The Board of Supervisors expressly reserves the right to grant, at any time, similar franchises, licenses and privileges over the same highways, roads, streets, alleys, and thoroughfares, or any thereof, to any other persons, firms or corporations.

**Section 23. Assignment.** Licensee hereby agrees that neither this License nor any of Licensee's facilities in the County rights-of-way shall be sold, assigned, or transferred without the prior written approval of the Pima County Board of Supervisors. The decision to approve or deny the sale, assignment or transfer of this License shall be within the sole discretion of the Board of Supervisors and the Board may deny Licensee's request to sell, assign or transfer the License if such denial is in the best interests of the County.

**Section 24. County's Contact Information.** All notices or contact concerning this License shall be provided in writing to:

Pima County Real Property Services  
201 North Stone, 6<sup>th</sup> Floor  
Tucson, Arizona 85701  
(520) 740-6313

**Section 25. Licensee's Contact Information.** Any change in any of the Licensee's contact information below shall be made in writing to the County.

Name: Tierra Linda Water Company by Lisa Sullivan

Title: V.P.

Address: PO Box 14858, Tucson, AZ 85732

Phone: (520) 495-5771

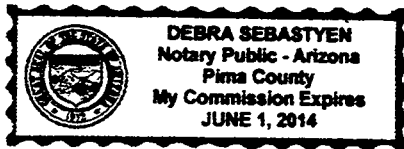
LICENSEE: TIERRA LINDA WATER  
COMPANY, INC., AN  
ARIZONA CORPORATION

By: [Signature]

Title: V.P.

State of Arizona     )  
                              )     SS  
County of Pima     )

This instrument was acknowledged before me this 31 day of May, 2011,  
by Misa Sullivan, as V. P.  
of Tierra Linda Water Company, Inc., an Arizona corporation.



[Signature: Debra Sebastyen]  
Notary Public

My Commission Expires:

June 1, 2014

PIMA COUNTY, ARIZONA

\_\_\_\_\_  
Chairman, Pima County Board of Supervisors

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Clerk, Pima County Board of Supervisors

Approved as to form:

\_\_\_\_\_  
Neil J. Konigsberg  
Deputy County Attorney

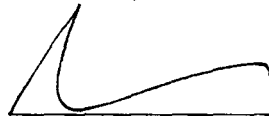
# CORPORATE RESOLUTION

I, the undersigned, hereby certify that I am the Secretary of Tierra Linda Water Company, Inc. a corporation duly organized and existing under and by virtue of the laws of the State of Arizona ; that I am the keeper of the corporate records of this Corporation and that as such, I am authorized to execute this certification on behalf of this Corporation; that the following is a true, correct and compared copy of a resolution duly adopted and ratified at a meeting of the Board of Directors of this Corporation, duly called and held on May 1, 2011 , in accordance with its charter and by-laws, at which meeting a quorum was present and acting throughout; that said resolution has not been in any way amended, annulled, modified, rescinded or revoked, but is in full force and effect.


Resolved, that the President and Vice President of this Corporation are hereby authorized in the name of this Corporation to execute applications, bank accounts, permits, and license agreements.

I further certify that the Board of Directors of this Corporation has, and at the time of adoption of this resolution had, full power and lawful authority to adopt the foregoing resolution and to confer the powers granted to the persons named who have full power and lawful authority to exercise the same.

IN WITNESS WHEREOF, I hereunto subscribe my name this 1<sup>st</sup> day of May, 2011.

  
\_\_\_\_\_  
Secretary

Attest:

  
\_\_\_\_\_  
Vice President

  
\_\_\_\_\_  
Treasurer

# **Appendix “B”**

**COMMISSIONERS**  
GARY PIERCE - Chairman  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS



ERNEST G. JOHNSON  
Executive Director

ARIZONA CORPORATION COMMISSION **RECEIVED**

May 20, 2011

2011 MAY 20 P 2: 56

AZ CORP COMMISSION  
DOCKET CONTROL

Mr. Lawrence V. Robertson, Jr.  
Attorney At Law  
Post Office Box 1448  
Tubac, Arizona 85646

RE: GARY SMYTH DBA TIERRA LINDA HOMEOWNERS ASSOCIATION, INC.  
DOCKET NOS. W-20689A-09-0327 AND W-04236A-09-0327  
DECISION NO. 72002

*Notice of Compliance*

Dear Mr. Robertson:

Enclosed is a stamped copy of the tariffs that were approved as being in compliance to the above Decision, with an effective date of December 10, 2010. (Curtailement Plan Tariff)

If you have questions regarding the filing of these tariffs, please contact me at (602) 364-1608.

Sincerely,

A handwritten signature in black ink that reads "Tanya D. Pitre".

Tanya D. Pitre  
Administrative Assistant II  
Utilities Division

**RECEIVED**

/tdp

Enclosures

Lawrence V. Robertson, Jr.

cc: Delbert Smith – Engineering Supervisor  
Docket Control Center



## TARIFF SCHEDULE

**ORIGINAL**

Utility: Tierra Linda Homeowners Association, Inc.  
Docket No.: W-20689A-09-0327 et al.  
Phone No.: (520) 529-1330

Tariff Sheet No.: 1 of 4  
Decision No.: 72002  
Effective: \_\_\_\_\_

**CURTAILMENT PLAN FOR:** Tierra Linda Homeowners Association, Inc.  
(Template 102109)

ADEQ Public Water System No: 10411

Tierra Linda Homeowners Association, Inc. ("Company"), is authorized to curtail water service to all customers within its certificated area under the terms and conditions listed in this tariff.

This curtailment plan shall become part of the Arizona Department of Environmental Quality Emergency Operations Plan for the Company.

The Company shall notify its customers of this new tariff as part of its next regularly scheduled billing after the effective date of the tariff or no later than sixty (60) days after the effective date of the tariff.

The Company shall provide a copy of the curtailment tariff to any customer, upon request.

**Stage 1 Exists When:**

Company is able to maintain water storage in the system at 100 percent of capacity and there are no known problems with its well production or water storage in the system.

Restrictions: Under Stage 1, the Company is deemed to be operating normally and no curtailment is necessary.

Notice Requirements: Under Stage 1, no notice is necessary.

**Stage 2 Exists When:**

- a. Company's water storage or well production has been less than 80 percent of capacity for at least 48 consecutive hours, and
- b. Company has identified issues such as a steadily declining water table, increased draw down threatening pump operations, or poor water production, creating a reasonable belief the Company will be unable to meet anticipated water demand on a sustained basis.

Restrictions: Under Stage 2, the Company may request the customers to voluntarily employ water conservation measures to reduce water consumption by approximately 50 percent. Outside watering should be limited to essential water, dividing outside watering on some uniform basis (such as even and odd days) and eliminating outside watering on weekends and holidays.

APPROVED FOR FILING

DECISION #: 72002

Revised October 21, 2009

## TARIFF SCHEDULE

**ORIGINAL**

Utility: Tierra Linda Homeowners Association, Inc.  
Docket No.: W-20689A-09-0327 et al.  
Phone No.: (520) 529-1330

Tariff Sheet No.: 2 of 4  
Decision No.: 72002  
Effective: \_\_\_\_\_

Notice Requirements: Under Stage 2, the Company is required to notify customers by delivering written notice door to door at each service address, or by United States first class mail to the billing address or, at the Company's option, both. Such notice shall notify the customers of the general nature of the problem and the need to conserve water.

**Stage 3 Exists When:**

- a. Company's total water storage or well production has been less than 50 percent of capacity for at least 24 consecutive hours, and
- b. Company has identified issues such as a steadily declining water table, increased draw down threatening pump operations, or poor water production, creating a reasonable belief the Company will be unable to meet anticipated water demand on a sustained basis.

Restrictions: Under Stage 3, the Company shall request the customers to voluntarily employ water conservation measures to reduce daily consumption by approximately 50 percent. All outside watering should be eliminated, except livestock, and indoor water conservation techniques should be employed whenever possible. Standpipe service shall be suspended.

**Notice Requirements:**

1. Company is required to notify customers by delivering written notice to each service address, or by United States first class mail to the billing address or, at the Company's option, both. Such Notice shall notify the customers of the general nature of the problem and the need to conserve water.
2. Beginning with Stage 3, the Company shall post at least three (3) signs showing the curtailment stage. Signs shall be posted at noticeable locations, like at the well sites and at the entrance to major subdivisions served by the Company.
3. The Company shall notify the Consumer Services Section of the Utilities Division of the Corporation Commission at least 12 hours prior to entering Stage 3.

Once Stage 3 has been reached, the Company must begin to augment the supply of water by either hauling or through an emergency interconnect with an approved water supply in an attempt to maintain the curtailment at a level no higher than Stage 3 until a permanent solution has been implemented.

APPROVED FOR FILING

DECISION #: 72002

Revised October 21, 2009

# TARIFF SCHEDULE

# ORIGINAL

Utility: Tierra Linda Homeowners Association, Inc.  
Docket No.: W-20689A-09-0327 et al.  
Phone No.: (520) 529-1330

Tariff Sheet No.: 3 of 4  
Decision No.: 72002  
Effective: \_\_\_\_\_

## Stage 4 Exists When:

- a. Company's total water storage or well production has been less than 25 percent of capacity for at least 12 consecutive hours, and
- b. Company has identified issues such as a steadily declining water table, increased draw down threatening pump operations, or poor water production, creating a reasonable belief the Company will be unable to meet anticipated water demand on a sustained basis.

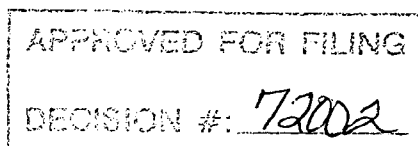
Restrictions: Under Stage 4, Company shall inform the customers of a **mandatory** restriction to employ water conservation measures to reduce daily consumption. Failure to comply will result in customer disconnection. The following uses of water shall be prohibited:

- Irrigation of outdoor lawns, trees, shrubs, or any plant life is prohibited
- Washing of any vehicle is prohibited
- The use of water for dust control or any outdoor cleaning uses is prohibited
- The use of drip or misting systems of any kind is prohibited
- The filling of any swimming pool, spas, fountains or ornamental pools is prohibited
- The use of construction water is prohibited
- Restaurant patrons shall be served water only upon request
- Any other water intensive activity is prohibited

The Company's operation of its standpipe service is prohibited. The addition of new service lines and meter installations is prohibited.

## Notice Requirements:

1. Company is required to notify customers by delivering written notice to each service address, or by United States first class mail to the billing address or, at the Company's option, both. Such notice shall notify the customers of the general nature of the problem and the need to conserve water.
2. Company shall post at least three (3) signs showing curtailment stage. Signs shall be posted at noticeable locations, like at the well sites and at the entrance to major subdivisions served by the Company.
3. Company shall notify the Consumer Services Section of the Utilities Division of the Corporation Commission at least 12 hours prior to entering Stage 4.



Revised October 21, 2009

# TARIFF SCHEDULE

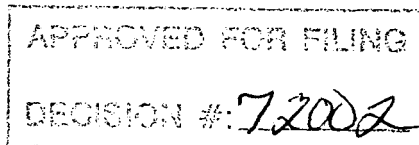
ORIGINAL

Utility: Tierra Linda Homeowners Association, Inc.  
Docket No.: W-20689A-09-0327 et al.  
Phone No.: (520) 529-1330

Tariff Sheet No.: 4 of 4  
Decision No.: 72002  
Effective: \_\_\_\_\_

Once Stage 4 has been reached, the Company must augment the supply of water by hauling or through an emergency interconnect from an approved supply or must otherwise provide emergency drinking water for its customers until a permanent solution has been implemented.

Customers who fail to comply with the above restrictions will be given a written notice to end all outdoor use. Failure to comply with two (2) working days of receipt of the notice will result in temporary loss of service until an agreement can be made to end unauthorized use of outdoor water. To restore service, the customer shall be required to pay all authorized reconnection fees. If a customer believes he/she has been disconnected in error, the customer may contact the Commission's Consumer Services Section at 1-800-222-7000 to initiate an investigation.



Revised October 21, 2009

# Appendix “C”

# ARIZONA CORPORATION COMMISSION CORPORATIONS DIVISION COVER SHEET

**USE A SEPARATE COVER SHEET FOR EACH DOCUMENT**

ARE YOU FILING: ☒ New Entity ☐ Change to existing entity ☐ Re-submission/Correction

PLEASE COMPLETE ALL APPROPRIATE SECTIONS

Type In Corporation LLC Name: TERRA LINDA WATER COMPANY, Inc.

FILING TYPE	REGULAR SERVICE FEE	EXPEDITED SERVICE FEE
<input type="checkbox"/> Articles of Domestication	\$100.00	\$135.00
<input checked="" type="checkbox"/> Articles of Incorporation (Profit)	\$ 60.00	\$ 95.00
<input type="checkbox"/> Articles of Incorporation (Non Profit)	\$ 40.00	\$ 75.00
<input type="checkbox"/> Articles of Organization (Limited Liability Company)	\$ 50.00	\$ 85.00
<input type="checkbox"/> Application For Authority (Business)	\$175.00	\$210.00
<input type="checkbox"/> Application to Conduct Affairs (Non Profit)	\$175.00	\$210.00
<input type="checkbox"/> Application for New Authority	\$175.00	\$210.00
<input type="checkbox"/> Application for Registration	\$150.00	\$185.00
<input type="checkbox"/> Articles of Amendment	\$ 25.00	\$ 60.00
<input type="checkbox"/> Articles of Amendment & Restatement	\$ 25.00	\$ 60.00
<input type="checkbox"/> Articles of Correction	\$ 25.00	\$ 60.00
<input type="checkbox"/> Articles of Merger/Share Exchange	\$100.00	\$135.00
<input type="checkbox"/> Articles of Merger (Limited Liability Company)	\$ 50.00	\$ 85.00
<input type="checkbox"/> Affidavit of Publication	\$ 0.00	\$ 35.00
<input type="checkbox"/> CORPORATIONS - Certified Copies* <small>*If copies are for different entities the Expedite fee applies to each entity</small>	<input type="checkbox"/> \$5.00 Each ( ) (Enter Quantity)	<input type="checkbox"/> \$40.00 ( ) (Enter Quantity)
<input type="checkbox"/> LLCs - Certified Copies* <small>*If copies are for different entities the Expedite fee applies to each entity</small>	<input type="checkbox"/> \$10.00 Each ( ) (Enter Quantity)	<input type="checkbox"/> \$45.00 ( ) (Enter Quantity)
<input type="checkbox"/> Good Standing Certificate* <small>*If Good Standing Certificates are for different entities the Expedite fee applies to each entity</small>	<input type="checkbox"/> \$10.00 Each ( ) (Enter Quantity)	<input type="checkbox"/> \$45.00 ( ) (Enter Quantity)
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Regular Fee	<input type="checkbox"/> Expedite Fee

SELECT PAYMENT TYPE:

DO NOT WRITE YOUR CREDIT CARD NUMBER ON THIS FORM!

☒ Check

Check # RECEIVED

Check Amount \$ 95.00

☐ M.O.D. Account

MOD Acct # \_\_\_\_\_

Mod Amount \$ \_\_\_\_\_

☐ Cash

APR 18 2011

Cash Amount \$ \_\_\_\_\_

☐ Credit Card - for in-person filings only

ARIZONA CORP COMMISSION  
CORPORATIONS DIVISION

CC Amount \$ \_\_\_\_\_

☐ No fee required

SELECT ONE RETURN DELIVERY OPTION: ☐ Mail ☐ Pick Up ☒ Fax # ( 520 ) 838-8778

**REQUIRED:** Please list the person or company who will be picking up the completed documents.

**DOCUMENTS WILL BE MAILED IF THEY ARE NOT PICKED UP IN A TIMELY MANNER (APPROXIMATELY TWO WEEKS).**

Person or Company Name:

Phone Number:

LISA SULLIVAN

520-495-5771

Address:

PO BOX 14858

City:

TUCSON

State:

AZ

Zip:

85732

PICK-UP BY: \_\_\_\_\_

FOR ARIZONA CORPORATION COMMISSION USE ONLY

DATE: \_\_\_\_\_

View current process times at: [www.azcc.gov/Divisions/Corporations](http://www.azcc.gov/Divisions/Corporations)

**COMMISSIONERS**  
GARY PIERCE - Chairman  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

**ARIZONA CORPORATION COMMISSION**

**ERNEST G. JOHNSON**  
Executive Director

**JEFF GRANT**  
Director  
Corporations Division

April 20, 2011

LISA SULLIVAN  
PO BOX 14858  
TUCSON, AZ 85732

RE: TIERRA LINDA WATER COMPANY, INC.  
File Number: 16748992

We are pleased to notify you that the Articles of Incorporation for the above-referenced entity **HAVE BEEN APPROVED.**

You must publish the Articles of Incorporation in their entirety. The publication must be in a newspaper of general circulation in the county of the known place of business in Arizona for three consecutive publications. A list of acceptable newspapers in each county is enclosed and is also available on the Commission website. Publication must be completed **WITHIN 60 DAYS** after April 20, 2011, which is the date the document was approved for filing by the Commission. The corporation may be subject to administrative dissolution if it fails to publish. You will receive an Affidavit of Publication from the newspaper, and you may file it with the Commission.

Corporations are required to file an Annual Report with the Commission. Your Annual Report is due on 04/18/2012, and on the anniversary of that date each subsequent year. It is your responsibility to file the corporation's Annual Report by the deadline each year. You can visit our website at [www.azcc.gov/divisions/corporations](http://www.azcc.gov/divisions/corporations) to electronically file your annual report. You can also complete the form online, print it out and mail it in, or you can call the Annual Reports section at 602-542-3285.

Corporations must notify the Commission immediately, in writing, if they change their corporate address, statutory agent, or statutory agent address. Address change orders must be signed by a duly authorized corporate officer. A forwarding order placed with the U.S. Postal Service is not sufficient to change your address with the Commission.

We strongly recommend you periodically monitor your corporation's record with the Commission, which can be viewed at [www.azcc.gov/Divisions/Corporations](http://www.azcc.gov/Divisions/Corporations). If you have questions or need further information please contact us at (602) 542-3026 in Phoenix, or Toll Free (Arizona residents only) at 1-800-345-5819.

Sincerely,  
Deanna Horn  
Examiner, Corporations Division

CF:04  
REV. 01/2009

**AZ CORPORATION COMMISSION  
FILED**

U3423013

**DO NOT PUBLISH  
THIS SECTION**

APR 18 2011

**ARTICLES OF INCORPORATION  
OF**

**ARTICLE 1**

The corporate name must contain a corporate ending which may be "corporation," "association," "company," "limited," "incorporated" or an abbreviation of any of these words. If you are the holder or assignee of a tradename, attach tradename certificate.

**FILE NO. 1674899-2** Pursuant to A.R.S. §10-202  
(An Arizona Business Corporation)

**1. Name:**

The name of the Corporation is:

Tierra Linda Water Company, Inc.

**2. Initial Business:**

The Corporation initially intends to conduct the business of:

Water Utility

**3. Authorized Capital:**The Corporation shall have authority to issue 1000 shares of Common Stock.**4. Known Place of Business: (In Arizona)**

The street address of the known place of business of the Corporation is:

4010 E Illinois

Tucson, AZ 85714

**ARTICLE 4**

May be in care of  
the statutory agent.

**ARTICLE 5**

The agent must provide a physical address. If the statutory agent has a P.O. Box, then they must also provide a physical description of their street address/location. The agent must sign the Articles or provide a consent to acceptance of the appointment.

**5. Statutory Agent: (In Arizona)**

The name and address of the statutory agent of the Corporation is:

Gary Smyth

4010 E. Illinois

Tucson, AZ 85714



**DO NOT PUBLISH  
THIS SECTION****ARTICLE 6**A minimum of 1  
director is required.**6. Board of Directors:**

The initial board of directors shall consist of 2 director(s). The name(s) and address(es) of the person(s) who is(are) to serve as the director(s) until the first annual meeting of shareholders or until his(her)(their) successor(s) is(are) elected and qualifies is(are):

Name: Gary SmythName: Lisa SullivanAddress: 4010 E. IllinoisAddress: 4010 E. IllinoisCity, State, Zip: Tucson, AZ 85714City, State, Zip: Tucson, AZ 85714

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

The number of persons to serve on the board of directors thereafter shall be fixed by the Bylaws.

**7. Incorporators:**

The name(s) and address(es) of the incorporator(s) is (are):

Name: Gary Smyth

Name: \_\_\_\_\_

Address: 4010 E. Illinois

Address: \_\_\_\_\_

City, State, Zip: Tucson, AZ 85714

City, State, Zip: \_\_\_\_\_

All powers, duties and responsibilities of the incorporators shall cease at the time of delivery of these Articles of Incorporation to the Arizona Corporation Commission.

**8. Indemnification of Officers, Directors, Employees and Agents:**

The Corporation shall indemnify any person who incurs expenses or liabilities by reason of the fact he or she is or was an officer, director, employee or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another Corporation, partnership, joint venture, trust or other enterprise. This indemnification shall be mandatory in all circumstances in which indemnification is permitted by law.

**9. Limitation of Liability:**

To the fullest extent permitted by the Arizona Revised Statutes, as the same exists or may hereafter be amended, a director of the Corporation shall not be liable to the Corporation or its stockholders for monetary damages for any action taken or any failure to take any action as a director. No repeal, amendment or modification of this article, whether direct or indirect, shall eliminate or reduce its effect with respect to any act or omission of a director of the Corporation occurring prior to such repeal, amendment or modification.

DO NOT PUBLISH  
THIS SECTION

Executed this 11<sup>th</sup> day of April, 2011 by all of the  
incorporators.

Signed: [Signature]

Gary Smyth  
Print Name Here

\_\_\_\_\_  
Print Name Here

PHONE (520) 495-5771

FAX (520) 838-8778

Phone and fax  
numbers are  
optional

The agent must  
consent to the  
appointment by  
executing the  
consent.

#### Acceptance of Appointment By Statutory Agent

The undersigned hereby acknowledges and accepts the appointment  
as statutory agent of the above-named corporation effective

This 11<sup>th</sup> day of April, 2011.

[Signature]  
Signature

Gary Smyth  
Print Name Here

Tierra Linda Water Company  
[If signing on behalf of a company serving as  
statutory agent, print company name here]

The Articles must  
be accompanied by  
a Certificate of  
Disclosure,  
executed within 30  
days of delivery to  
the Commission, by  
all incorporators.

**CERTIFICATE OF DISCLOSURE**

A.R.S. §10-202(D) (for-profits and financial institutions) or §10-3202(D) (nonprofits)

Tierra Linda Water Company, Inc  
EXACT CORPORATE NAME

- A. Has any person (i) who is currently an officer, director, trustee, incorporator, or (ii) (for-profits and financial institutions only) who controls or holds over 10% of the issued and outstanding common shares or 10% of any other proprietary, beneficial or membership interest in the corporation been:
1. Convicted of a felony involving a transaction in securities, consumer fraud or antitrust in any state or federal jurisdiction within the seven-year period immediately preceding the execution of this Certificate?
  2. Convicted of a felony, the essential elements of which consisted of fraud, misrepresentation, theft by false pretenses, or restraint of trade or monopoly in any state or federal jurisdiction within the seven-year period immediately preceding the execution of this Certificate?
  3. Subject to an injunction, judgment, decree or permanent order of any state or federal court entered within the seven-year period immediately preceding the execution of this Certificate wherein such injunction, judgment, decree or permanent order:
    - (a) Involved the violation of fraud or registration provisions of the securities laws of that jurisdiction; or
    - (b) Involved the violation of the consumer fraud laws of that jurisdiction; or
    - (c) Involved the violation of the antitrust or restraint of trade laws of that jurisdiction?

Yes \_\_\_\_\_ No ☒

## B. IF YES, the following information MUST be attached:

1. Full name, prior name(s) and aliases, if used.
2. Full birth name.
3. Present home address.
4. Prior addresses (for immediate preceding 7-year period).
5. Date and location of birth.
6. The nature and description of each conviction or judicial action, including the date and location, the court and public agency involved and file or cause number of case.

- C. Has any person (i) who is currently an officer, director, trustee, incorporator, or (ii) (for-profits and financial institutions only) who controls or holds over twenty per cent of the issued and outstanding common shares or twenty per cent of any other proprietary, beneficial or membership interest in the corporation served in any such capacity or held a twenty per cent interest in any other corporation in any jurisdiction on the bankruptcy or receivership of the other corporation?

Yes \_\_\_\_\_ No ☒

IF YOUR ANSWER TO THE ABOVE QUESTION IS "YES", YOU MUST ATTACH THE FOLLOWING INFORMATION FOR EACH CORPORATION:

1. Name and address of the other corporation.
2. Full name (including aliases) and address of each person involved.
3. State(s) in which the other corporation:
  - (a) was incorporated.
  - (b) has transacted business.
4. Dates of corporate operation.
5. Case information for bankruptcy or receivership (date, case number, court).

Under penalties of law, the undersigned incorporator(s)/officer(s)/director(s) declare(s) that I(we) have examined this Certificate, including any attachments, and to the best of my(our) knowledge and belief it is true, correct and complete, and hereby declare as indicated above.  
THE SIGNATURE(S) MUST BE DATED WITHIN THIRTY (30) DAYS OF THE DELIVERY DATE.

BY [Signature]BY [Signature]PRINT NAME Gary SmythPRINT NAME Lisa SullivanTITLE President DATE 4/11/11TITLE V.P., Sect, Treas DATE 4/11/11

**ARIZONA CORPORATIONS:** ALL INCORPORATORS MUST SIGN THE INITIAL CERTIFICATE OF DISCLOSURE. If within sixty days any person becomes an officer, director, trustee or (for-profits or financial institutions) person controlling or holding over 10% of the issued and outstanding shares or 10% of any other proprietary, beneficial, or membership interest in the corporation and the person was not included in this disclosure, the corporation must file a SUPPLEMENTAL certificate signed by at least one duly authorized officer of the corporation.

**FOREIGN CORPORATIONS:** MUST BE SIGNED BY AT LEAST ONE DULY AUTHORIZED OFFICER OF THE CORPORATION.

**FINANCIAL INSTITUTIONS:** MUST BE SIGNED BY TWO (2) DULY AUTHORIZED OFFICERS OR DIRECTORS OF THE CORPORATION.



ARIZONA CORPORATION COMMISSION  
CORPORATIONS DIVISION

### NEWSPAPER LISTING

This list is maintained by the Arizona Corporation Commission as a courtesy to its customers. The publishers of the newspapers appearing on this list have attested to the Commission that they meet the statutory requirements for publishing documents filed with the Commission. This list is not intended to be nor should it be considered an endorsement of any particular newspaper by the Commission.

#### APACHE

NAVAJO TIMES  
P.O. BOX 310  
WINDOW ROCK, AZ 86515  
928-871-6641

WHITE MOUNTAIN  
INDEPENDENT  
(APACHE EDITION)  
PO BOX 1570  
SHOWLOW, AZ 85902  
928-537-5721

#### COCHISE

ARIZONA RANGE NEWS  
122 S. HASKELL  
WILCOX, AZ 85643  
520-384-3571

THE BISBEE OBSERVER  
7 BISBEE ROAD, SUITE L  
BISBEE, AZ 85603  
520-432-7254

DOUGLAS DISPATCH  
530 11<sup>TH</sup> STREET  
DOUGLAS, AZ 85608  
520-364-3424

MOUNTAIN VIEW NEWS  
1835 PASEO SAN LUIS  
SIERRA VISTA, AZ 85635  
520-458-3340

SAN PEDRO VALLEY NEWS-SUN  
P.O. DRAWER 1000  
200 S. OCOTILLO  
BENSON, AZ 85602  
520-586-3382

SIERRA VISTA HERALD  
BISBEE DAILY REVIEW  
102 FAB AVENUE  
SIERRA VISTA, AZ 85635  
520-458-9440

THE TOMBSTONE NEWS  
P.O. BOX 1760  
525 E. ALLEN STREET, #4  
TOMBSTONE, AZ 85638  
520-457-3086

#### COCONINO

ARIZONA DAILY SUN  
1751 W. THOMPSON  
FLAGSTAFF, AZ 86001  
928-774-4545

ASIAN AMERICAN TIMES  
2011 SOUTH HENKEL CIRCLE  
MESA, AZ 85202  
(480) 839-5139

#### COCONINO continued

LAKE POWELL CHRONICLE  
P.O. BOX 1716  
PAGE, AZ 86040  
928-645-8888

NAVAJO TIMES  
P.O. BOX 310  
WINDOW ROCK, AZ 86515  
928-871-6641

SEDONA RED ROCK NEWS  
298 VAN DEREN  
SEDONA, AZ 86336  
928-282-7795 EXT - 213

SOUTHERN UTAH NEWS  
26 N. MAIN  
KANAB, UTAH 84741  
435-644-2900

WILLIAMS-GRAND CANYON  
NEWS  
118 S. THIRD STREET  
WILLIAMS, AZ 86046  
928-635-4426

#### GILA

ARIZONA SILVER BELT  
298 PINE STREET  
P.O. BOX 31  
GLOBE, AZ 85501  
928-425-7121

COPPER BASIN NEWS  
366 ALDEN ROAD  
KEARNY, AZ 85237  
520-363-5554

THE PAYSON ROUNDUP  
P.O. BOX 2520  
708 N. BEELINE HWY  
PAYSON, AZ 85541  
928-474-5251

THE SAN CARLOS APACHE  
MOCCASIN  
298 N. PINE STREET  
GLOBE, AZ 85501  
928-425-7121

RIM COUNTRY GAZETTE  
HC 4 BOX 16-700  
PAYSON, AZ 85541  
928-474-7819

#### GRAND

EASTERN ARIZONA COURIER  
301A E. HWY 70  
SAFFORD, AZ 85546  
928-428-2560

#### GRENADE

THE COPPER ERA  
301A E. HWY. 70  
SAFFORD, AZ 85546  
928-428-2560

#### PARKER

PARKER PIONEER  
1317 JOSHUA AVENUE, SUITE L  
PARKER, AZ 85344  
928-669-2275

#### MARICOPA

ARIZONA BUSINESS GAZETTE  
P.O. BOX 194  
PHOENIX, AZ 85001  
602-444-7315

ARIZONA CAPITOL TIMES  
1835 W. ADAMS  
PHOENIX, AZ 85007  
602-258-7026

ARIZONA CHINESE AMERICAN  
7328 N. 7<sup>TH</sup> AVENUE  
PHOENIX, AZ 85021  
602-269-3062

ASIAN AMERICAN TIMES  
2011 SOUTH HENKEL CIRCLE  
MESA, AZ 85202  
(480) 839-5139

BUCKEYE VALLEY NEWS  
122 S. 4<sup>TH</sup> ST  
BUCKEYE, AZ 85326  
623-386-4426

DAILY NEWS-SUN  
10102 SANTA FE DRIVE  
SUN CITY, AZ 85351  
623-876-2547

GILA BEND SUN  
P.O. BOX 2  
GILA BEND, AZ 85337  
623-386-7495 (Phoenix)  
928-683-2393

GLENDALE STAR  
7122 N. 59<sup>TH</sup> AVENUE  
GLENDALE, AZ 85301  
623-842-6000

JEWISH NEWS OF GREATER  
PHOENIX  
1625 E. NORTHERN AVE., #106  
PHOENIX, AZ 85020  
602-870-9470

**MARICOPA continued**

PEORIA TIMES  
7122 N. 59TH AVENUE  
GLENDALE, AZ 85301  
623-842-6000

THE BUCKEYE STAR  
3201 N. 302ND CRT.  
BUCKEYE, AZ 85396  
623-374-4303

THE FOUNTAIN HILLS TIMES  
16508 E. LASER DRIVE, UNIT  
101

FOUNTAIN HILLS, AZ 85268  
480-837-1925

THE RECORD REPORTER  
1505 N. CENTRAL AVENUE,  
#200  
PHOENIX, AZ 85004  
602-417-9900

THE WALL STREET JOURNAL  
4850 S. PARK AVENUE  
TUCSON, AZ 85726  
214-640-7939

WEST VALLEY VIEW  
1050 E. RILEY DRIVE  
AVONDALE, AZ 85323  
623-535-8439

WICKENBURG SUN  
180 N. WASHINGTON STREET  
WICKENBURG, AZ 85390  
928-684-5454

**MOHAVE**

BULLHEAD CITY BEE  
1905 LAKESTIDE DRIVE  
BULLHEAD CITY, AZ 86442  
928-763-9339

KINGMAN DAILY MINER  
3015 STOCKTON HILL RD  
KINGMAN, AZ 86401  
928-753-6397

MOHAVE VALLEY DAILY NEWS  
2435 MIRACLE MILE  
BULLHEAD CITY, AZ 86442-  
7311  
928-763-2505

THE STANDARD  
221 E. BEALE  
KINGMAN, AZ 86401  
928-753-1143

TODAY'S NEWS HERALD  
2225 W. ACOMA BLVD.  
LAKE HAVASU CITY, AZ 86403  
928-453-4237

SOUTHERN UTAH NEWS  
26 N. MAIN  
KANAB, UTAH 84741  
435-644-2900

**NAVAJO**

NAVAJO TIMES  
P.O. BOX 310  
WINDOW ROCK, AZ 86515  
928-871-1130

**NAVAJO continued**

THE TRIBUNE-NEWS  
P.O. BOX 670  
HOLBROOK, AZ 86025  
928-524-6203

WHITE MOUNTAIN  
INDEPENDENT  
P.O. BOX 1570  
SHOW LOW, AZ 85902  
928-537-5721

**PINAL**

AJO COPPER NEWS  
P.O. BOX 39  
AJO, AZ 85321  
520-387-7688

ARIZONA CHINESE AMERICAN  
7328 N. 7TH AVENUE  
PHOENIX, AZ 85021  
602-269-3062

ARIZONA DAILY STAR  
P.O. BOX 26887  
TUCSON, AZ 85726  
520-573-4292

ASIAN AMERICAN TIMES  
2011 SOUTH HENKEL CIRCLE  
MESA, AZ 85202  
(480) 839-5139

GREEN VALLEY NEWS AND SUN  
P.O. BOX 567  
GREEN VALLEY, AZ 85622  
520-547-9746

THE DAILY TERRITORIAL  
3280 E. HEMISPHERE LOOP, #180  
TUCSON, AZ 85706  
520-294-1200

THE RECORD REPORTER  
1505 N. CENTRAL AVE., #200  
PHOENIX, AZ 85004  
602-417-9900

THE WALL STREET JOURNAL  
4850 S. PARK AVENUE  
TUCSON, AZ 85726  
214-640-7939

**PIMA**

ARIZONA CHINESE AMERICAN  
7328 N. 7TH AVENUE  
PHOENIX, AZ 85021  
602-269-3062

ARIZONA CITY INDEPENDENT  
P.O. BOX 2014  
ARIZONA CITY, AZ 85223  
520-466-6277

ASIAN AMERICAN TIMES  
2011 SOUTH HENKEL CIRCLE  
MESA, AZ 85202  
(480) 839-5139

CASA GRANDE DISPATCH  
P.O. BOX 15002  
CASA GRANDE, AZ 85230  
520-836-7461

COOLIDGE EXAMINER  
P.O. BOX 128  
COOLIDGE, AZ 85228  
520-723-5441

**PINAL continued**

COPPER BASIN NEWS  
366 ALDEN ROAD  
KEARNY, AZ 85237  
520-363-5554

ELOY ENTERPRISE  
710 N. MAIN  
ELOY, AZ 85231  
520-466-7333

FLORENCE REMINDER &  
BLADE-TRIBUNE  
190 N. MAIN STREET  
FLORENCE, AZ 85232  
520-868-5897

MARICOPA MONITOR  
P.O. BOX 1347  
MARICOPA, AZ 85239  
520-568-4198

SAN MANUEL MINER  
P.O. BOX 60  
SAN MANUEL, AZ 85631  
520-385-2266

SUPERIOR SUN  
467 MAIN STREET  
SUPERIOR, AZ 85273  
520-363-5554

**SANTA CRUZ**

GREEN VALLEY NEWS AND SUN  
P.O. BOX 567  
GREEN VALLEY, AZ 85622  
520-547-9746

NOGALES INTERNATIONAL  
268 W. VIEW POINT DRIVE  
NOGALES, AZ 85621  
520-375-5760

THE WEEKLY BULLETIN  
3244 HIGHWAY 82  
SONOITA, AZ 85637  
520-455-4776

**YAVAPAI**

THE CAMP VERDE JOURNAL  
P.O. BOX 2048  
CAMP VERDE, AZ 86322  
928-567-3341

THE DAILY COURIER  
P.O. BOX 312  
PRESCOTT, AZ 86302  
928-445-3333

THE WALL STREET JOURNAL  
4850 S. PARK AVENUE  
TUCSON, AZ 85726  
214-640-7939

SEDONA RED ROCK NEWS  
298 VAN DEREN  
SEDONA, AZ 86336  
928-282-7795 EXT - 213

VERDE INDEPENDENT  
116 S. MAIN STREET  
COTTONWOOD, AZ 86326  
928-634-2241

**YUMA**

THE SUN  
2055 S. ARIZONA AVE  
YUMA, AZ 85364  
928-783-3333

# Appendix “D”

## Water System Assets

### Real Estate

- 0.68 acre wellsite, dkt. 10209, pg. 2027
- non-exclusive right to 20' wide utility and access easement to wellsite located within lot 20 of Tierra Linda, Dkt. 17, Pg. 92
- non-exclusive right to 50' wide private ingress/egress & utility easement to wellsite located within lot 53 of Tierra Linda Nueva, Bk. 59, Pg. 3.

### Structures and Improvements

- wellsite fencing and gates
- wellsite concrete slabs
- wellsite gravel and riprap

### Wells and Springs

- well with 12" casing

### Pumping Equipment

- 25 hp submersible pump
- 450 lf drop pipe, cable and sounding tube
- Two 10 hp and one 50 hp booster pumps
- piping, valves, flow meters, supports
- electrical equipment and panels
- compressor and related piping, valves and fittings
- 5000 gallon hydro-pneumatic tank, valves, fittings and connection

### Distribution Reservoirs and Standpipes

- wellsite ductile iron pipe, fittings and connections
- 400,000 gallon storage tank, piping, fittings and connections
- 8" elevated overflow and supports

### Transmission and Distribution Mains

- 1,520 lf 12" mains, (4) 12" valves
- 6,922 lf 8" mains, (31) 8" valves
- 1,000 lf 6" mains, (0) 6" valves
- (15) 2" DVAs

### Services

- Phase 1: 37 single water services, 40 double water services, 2 irrigation services
- Phase 2: 22 single water services, 13 double water services

### Meters and Meter Installations

- 60 5/8" x 3/4" meters

### Hydrants

- Phase 1: 15 hydrants
- Phase 2: 8 hydrants

### Other Plant and Misc. Equipment

- chlorination system
- cellular phone connection to telemetry system

Water Hose for blowing off dead ends	Value	\$200.00
One Meter and a Couple of Fittings	Value	\$150.00

# Appendix “E”

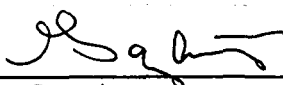


# PERSONAL FINANCIAL STATEMENT

Gary Smyth  
April 28, 2011

Assets	Amount in Dollars
Cash - checking accounts	\$ 154,593
Certificates of deposit	-
Securities - stocks / bonds / mutual funds	60,000
Notes & contracts receivable	-
Life insurance ( <i>cash surrender value</i> )	10,000
Personal property ( <i>autos, jewelry, etc.</i> )	120,000
Retirement Funds ( <i>eg. IRAs, 401k</i> )	-
Real estate ( <i>market value of home</i> )	800,000
Real estate ( <i>other</i> )	1,590,000
Other assets ( <i>Business</i> )	2,513,953
Other assets ( <i>Water Companies</i> )	670,000
<b>Total Assets</b>	<b>\$ 5,918,546</b>

Liabilities	Amount in Dollars
Current Debt ( <i>Credit cards, Accounts</i> )	N/A
Notes payable ( <i>describe below</i> )	N/A
Taxes payable	N/A
Real estate mortgages ( <i>describe</i> )	N/A
Other liabilities ( <i>specify</i> )	N/A
Other liabilities ( <i>specify</i> )	N/A
<b>Total Liabilities</b>	<b>\$ -</b>
<b>Net Worth</b>	<b>\$ 5,918,546</b>

  
Gary Smyth

4/28/11  
Date

# STATE OF ARIZONA



Office of the  
**CORPORATION COMMISSION**  
**CERTIFICATE OF GOOD STANDING**

To all to whom these presents shall come, greeting:

I, Ernest G. Johnson, Executive Director of the Arizona Corporation Commission, do hereby certify that

**\*\*\*TIERRA LINDA WATER COMPANY, INC.\*\*\***

a domestic corporation organized under the laws of the State of Arizona, did incorporate on April 18, 2011.

I further certify that according to the records of the Arizona Corporation Commission, as of the date set forth hereunder, the said corporation is not administratively dissolved for failure to comply with the provisions of the Arizona Business Corporation Act; and that its most recent Annual Report, subject to the provisions of A.R.S. sections 10-122, 10-123, 10-125 & 10-1622, has been delivered to the Arizona Corporation Commission for filing; and that the said corporation has not filed Articles of Dissolution as of the date of this certificate.

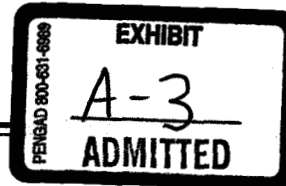
This certificate relates only to the legal existence of the above named entity as of the date issued. This certificate is not to be construed as an endorsement, recommendation, or notice of approval of the entity's condition or business activities and practices.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Arizona Corporation Commission. Done at Phoenix, the Capital, this 15th Day of May, 2012, A. D.



*E. G. Johnson*  
Executive Director

By: \_\_\_\_\_ 761588



# STATE OF ARIZONA



Office of the  
**CORPORATION COMMISSION**  
**CERTIFICATE OF GOOD STANDING**

*To all to whom these presents shall come, greeting:*

*I, Ernest G. Johnson, Executive Director of the Arizona Corporation Commission, do hereby certify that*

**\*\*\*SMYTH UTILITY MANAGEMENT, INC.\*\*\***

*a domestic corporation organized under the laws of the State of Arizona, did incorporate on July 19, 2011.*

*I further certify that according to the records of the Arizona Corporation Commission, as of the date set forth hereunder, the said corporation is not administratively dissolved for failure to comply with the provisions of the Arizona Business Corporation Act; and that its most recent Annual Report, subject to the provisions of A.R.S. sections 10-122, 10-123, 10-125 & 10-1622, has been delivered to the Arizona Corporation Commission for filing; and that the said corporation has not filed Articles of Dissolution as of the date of this certificate.*

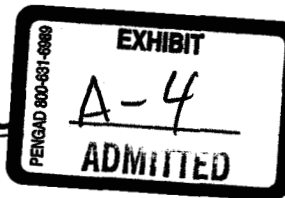
*This certificate relates only to the legal existence of the above named entity as of the date issued. This certificate is not to be construed as an endorsement, recommendation, or notice of approval of the entity's condition or business activities and practices.*

**IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Arizona Corporation Commission. Done at Phoenix, the Capital, this 15th Day of May, 2012, A. D.**



  
\_\_\_\_\_  
Executive Director

By: \_\_\_\_\_ 761599



# STATE OF ARIZONA



Office of the  
**CORPORATION COMMISSION**  
**CERTIFICATE OF GOOD STANDING**

*To all to whom these presents shall come, greeting:*

*I, Ernest G. Johnson, Executive Director of the Arizona Corporation Commission, do hereby certify that*

**\*\*\*CAYETANO, INC.\*\*\***

*a domestic corporation organized under the laws of the State of Arizona, did incorporate on July 24, 1974.*

*I further certify that according to the records of the Arizona Corporation Commission, as of the date set forth hereunder, the said corporation is not administratively dissolved for failure to comply with the provisions of the Arizona Business Corporation Act; and that its most recent Annual Report, subject to the provisions of A.R.S. sections 10-122, 10-123, 10-125 & 10-1622, has been delivered to the Arizona Corporation Commission for filing; and that the said corporation has not filed Articles of Dissolution as of the date of this certificate.*

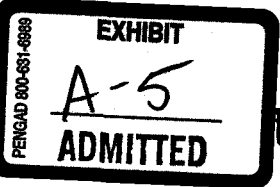
*This certificate relates only to the legal existence of the above named entity as of the date issued. This certificate is not to be construed as an endorsement, recommendation, or notice of approval of the entity's condition or business activities and practices.*

**IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Arizona Corporation Commission. Done at Phoenix, the Capital, this 15th Day of May, 2012, A. D.**



Executive Director

By: 761603



# STATE OF ARIZONA



Office of the  
**CORPORATION COMMISSION**  
**CERTIFICATE OF GOOD STANDING**

To all to whom these presents shall come, greeting:

I, Ernest G. Johnson, Executive Director of the Arizona Corporation Commission, do hereby certify that

**\*\*\*SAGUARO WATER CO.\*\*\***

a domestic corporation organized under the laws of the State of Arizona, did incorporate on November 6, 1985.

I further certify that according to the records of the Arizona Corporation Commission, as of the date set forth hereunder, the said corporation is not administratively dissolved for failure to comply with the provisions of the Arizona Business Corporation Act; and that its most recent Annual Report, subject to the provisions of A.R.S. sections 10-122, 10-123, 10-125 & 10-1622, has been delivered to the Arizona Corporation Commission for filing; and that the said corporation has not filed Articles of Dissolution as of the date of this certificate.

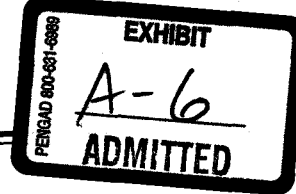
This certificate relates only to the legal existence of the above named entity as of the date issued. This certificate is not to be construed as an endorsement, recommendation, or notice of approval of the entity's condition or business activities and practices.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Arizona Corporation Commission. Done at Phoenix, the Capital, this 15th Day of May, 2012, A. D.



  
Executive Director

By: \_\_\_\_\_ 761593



# STATE OF ARIZONA



Office of the  
**CORPORATION COMMISSION**  
**CERTIFICATE OF GOOD STANDING**

*To all to whom these presents shall come, greeting:*

*I, Ernest G. Johnson, Executive Director of the Arizona Corporation Commission, do hereby certify that*

**\*\*\*SMYTH INDUSTRIES INC.\*\*\***

*a domestic corporation organized under the laws of the State of Arizona, did incorporate on September 14, 1989.*

*I further certify that according to the records of the Arizona Corporation Commission, as of the date set forth hereunder, the said corporation is not administratively dissolved for failure to comply with the provisions of the Arizona Business Corporation Act; and that its most recent Annual Report, subject to the provisions of A.R.S. sections 10-122, 10-123, 10-125 & 10-1622, has been delivered to the Arizona Corporation Commission for filing; and that the said corporation has not filed Articles of Dissolution as of the date of this certificate.*

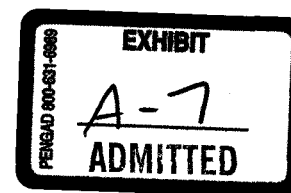
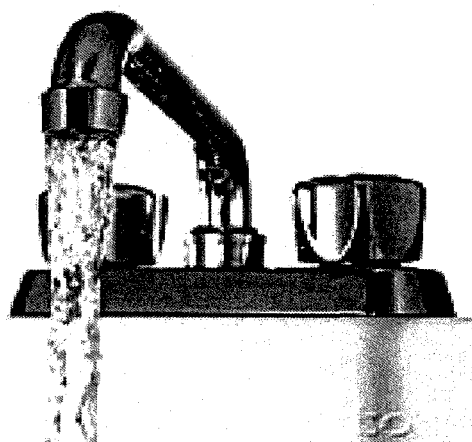
*This certificate relates only to the legal existence of the above named entity as of the date issued. This certificate is not to be construed as an endorsement, recommendation, or notice of approval of the entity's condition or business activities and practices.*

**IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Arizona Corporation Commission. Done at Phoenix, the Capital, this 15th Day of May, 2012, A. D.**



  
\_\_\_\_\_  
Executive Director

By: \_\_\_\_\_ 761598



# 2011 ANNUAL WATER QUALITY REPORT

## TIERRA LINDA WATER COMPANY

PWS# 10-411

May 2012

*Esta es informacion importante. Si no la pueden leer, necesitan que alguien se la traduzca.*

We are pleased to present to you this year's Annual Water Quality Report. This report is designed to inform you about the quality water and services we deliver to you every day. Our constant goal is to provide you with a safe and dependable supply of drinking water.

**Water System #10-411**, known as the **Tierra Linda Water Company**, currently serves a **population of approximately 177 people** throughout the year, and has 63 service connections. The water is pumped from 1 well.

If you have any questions about this report or concerning your water utility, please contact Christopher W. Hill, CWH2 Services, LLC, at (520) 904-0741.

**Some people may be more vulnerable to contaminants in drinking water than the public in general.**

All drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that the water poses a health risk. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV-AIDS or other immune system disorders, some elderly, and infants can be particularly at risk of infections. These people should seek advice about drinking water from their health care providers. More information about contaminants and potential health effects, or to receive a copy of the U.S. Environmental Protection Agency (EPA) and the U.S. Centers for Disease Control (CDC) guidelines on appropriate means to lessen the risk of infection by cryptosporidium and microbiological contaminants call the EPA *Safe Drinking Water Hotline* at 1-800-426-4791.



The sources of drinking water, both tap water and bottled water; include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally occurring minerals and, in some cases, radioactive material, and can pick up substances resulting from the presence of animals or from human activity. Contaminants that may be present in source water include:

- **Microbial contaminants**, such as viruses and bacteria that may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife.
- **Inorganic contaminants**, such as salts and metals, which can be naturally-occurring or result from urban stormwater runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming.
- **Pesticides and herbicides** that may come from a variety of sources, such as agriculture, urban stormwater runoff, and residential uses.
- **Organic chemical contaminants**, including synthetic and volatile organic chemicals, which are byproducts of industrial processes and petroleum production, and also may come from gas stations, urban stormwater runoff, and septic systems.
- **Radioactive contaminants**, that can be naturally occurring or be the result of oil and gas production and mining activities.

In order to ensure that tap water is safe to drink, EPA prescribes regulations which limit the amount of certain contaminants in water provided by public water systems. The U.S. Food and Drug Administration (FDA) regulations establish limits for contaminants in bottled water that must provide the same protection for public health.

The table of detected contaminants contains many terms and abbreviations that may be unfamiliar. To help you better understand these terms we've provided the following definitions:

- **Action Level (AL):** The concentration of a contaminant, if exceeded, triggers treatment or other requirements a water system must follow.
- **Maximum Contaminant Level (MCL):** The "maximum allowed" is the highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.
- **Maximum Contaminant Level Goal (MCLG):** The "goal" is the level of a contaminant in drinking water, below which there is no known or expected risk to health. MCLGs allow for a margin of safety.
- **Maximum Residual Disinfectant Level Goal (MRDLG):** The level of a drinking water disinfectant, below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contaminants.
- **Maximum Residual Disinfectant Level (MRDL):** The highest level of a disinfectant allowed in drinking water. There is convincing evidence that addition of a disinfectant is necessary for control of microbial contaminants.
- **Nephelometric Turbidity Unit (NTU):** Nephelometric turbidity unit is a measure of the clarity of water. Turbidity in excess of five NTU is just noticeable to the average person.
- **Not Detected (ND) or Below Detection Level (BDL):** Laboratory analysis indicates that the contaminant is not present. (" $<$ " Symbol for less than, the same as ND or BDL)
- **Not Tested (NT):** Contaminant was not tested.
- **Parts per billion (ppb) or Micrograms per liter ( $\mu\text{g/l}$ ):** One part per billion corresponds to one minute in 2,000 years, or one penny in \$10,000,000.
- **Parts per million (ppm) or Milligrams per liter (mg/l):** One part per million corresponds to one minute in two years or one penny in \$10,000.
- **Parts per quadrillion (ppq) or Picograms per liter (pg/l):** One part per quadrillion corresponds to one minute in 2,000,000,000 years or one penny in \$10,000,000,000,000.
- **Parts per trillion (ppt) or Nanograms per liter (ng/l):** One part per trillion corresponds to one minute in 2,000,000 years, or one penny in \$10,000,000,000.
- **PicoCuries per Liter (pCi/l):** A measure of radioactivity in water.
- **Total Organic Carbon (TOC):** A measure of the total amount of carbon in water, present as organic molecules.





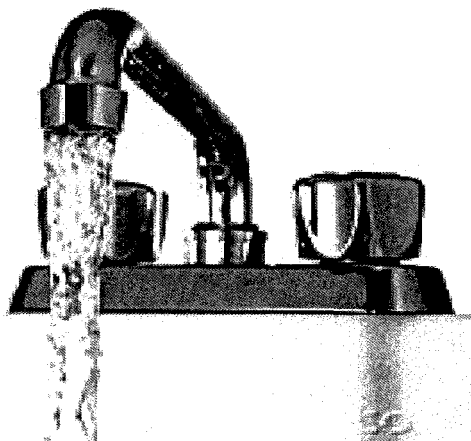
- *Treatment Technique (TT): A treatment technique is a required process intended to reduce the level of a contaminant in drinking water.*

### **Additional Information**

**Nitrate** in drinking water at levels above 10 ppm is a health risk for infants of less than six months of age. High nitrate levels in drinking water can cause blue baby syndrome. Nitrate levels may rise quickly for short periods-of-time because of rainfall or agricultural activity. If you are caring for an infant, and detected nitrate levels are above 5 ppm, you should ask advice from your health care provider.

If **arsenic** is less than 10 ppb, your drinking water meets EPA's standards. EPA's standard balances the current understanding of arsenic's possible health effects against the costs of removing arsenic from drinking water. EPA continues to research the health effects of low levels of arsenic, which is a mineral known to cause cancer in humans at high concentrations and is linked to other health effects such as skin damage and circulatory problems. The July 11, 2011 sample was 10.7 ppb. However, the confirmation sample collected on July 20, 2011 had a result of 8.4 ppb. Based on these values and the running annual average of samples for arsenic, the System has an arsenic value of 9.1 ppb and is therefore in compliance and under the drinking water standard of 10 ppb.

Infants and young children are typically more vulnerable to **lead** in drinking water than the general population. It is possible that lead levels at your home may be higher than at other homes in the community as a result of materials used in your home's plumbing. If you are concerned about elevated lead levels in your home's water, you may wish to have your water tested. Flush your tap for 30 seconds to 2 minutes before using tap water. Additional information is available from the EPA *Safe Drinking Water Hotline* at 1-800-426-4791.



## Table of Contaminants

The state requires us to monitor for certain contaminants less than once per year because the concentrations of these contaminants are not expected to vary significantly from year to year, or the system is not considered vulnerable to this type of contamination. Some of our data, though representative, may be more than one year old.

This table shows the results of our monitoring for the period of January 1 to December 31, 2011 unless otherwise noted.

### Microbiological Contaminants

Contaminant	MCL	MCLG	Unit	System Result	Violation Yes or No	Sample Date(s)	Likely Source of Contamination
Total Coliform Bacteria for Systems that collect <40 samples per month	1 positive monthly sample	0	Absent or Present	0	No	Jan. – Dec. 2011	Naturally present in the environment

### Radionuclides

Contaminant	MCL	MCLG	Units	Level Detected & Range	Violation (Yes or No)	Sample Date	Likely Source of Contamination
Alpha emitters	15	0	pCi/l	8.5 +/-1.4 (8.0 to 9.2 +/-1.4)	No	8/23/07, 9/23/07, and 10/10/07	Erosion of natural deposits
Combined radium	5	0	pCi/l	<0.4	No	8/23/07, 9/23/07 and 10/10/07	Erosion of natural deposits

### Lead and Copper

Contaminant	EPA Action Level (AL)	EPA Action Level Goal (ALG)	Units	Maximum Level Detected	90 <sup>th</sup> Percentile Values	Violation Yes or No	Sample Dates	Likely Source of Contamination
Copper	1.3	0	ppm	0.02	0.02	No	July 2011	Corrosion of household plumbing systems; erosion of natural deposits; leaching from wood preservatives
Lead	0.015	0	ppm	0.001	<0.001	No	July 2011	Corrosion of household plumbing systems, erosion of natural deposits

### Inorganic Contaminants

Contaminant	MCL	MCLG	Units	Level Detected	Violation Yes or No	Sample Dates	Likely Source of Contamination
Arsenic	10	0	ppb	9.1	No, Running Annual Average	January-December 2011	Erosion of natural deposits; runoff from orchards; runoff from glass and electronics production wastes
Asbestos	7	7	MFL	<0.2	No	7/5/07	Decay of asbestos cement water mains; erosion of natural deposits
Barium	2	2	ppm	0.105	No	5/18/07	Discharge of drilling wastes; discharge from metal refineries; erosion of natural deposits
Beryllium	4	4	ppb	<0.5	No	5/18/07	Discharge from metal refineries and coal-burning factories; discharge from electrical, aerospace, and defense industries
Cadmium	5	5	ppb	<2.0	No	5/18/07	Corrosion of galvanized pipes; erosion of natural deposits; discharge from metal refineries; runoff from waste batteries and paints
Chromium	100	100	ppb	<5.0	No	5/18/07	Discharge from steel and pulp mills; erosion of natural deposits
Cyanide	200	200	ppb	<5.0	No	5/18/07	Discharge from steel/metal factories; discharge from plastic and fertilizer factories

Contaminant	MCL	MCLG	Units	Level Detected	Violation Yes or No	Sample Dates	Likely Source of Contamination
Fluoride	4	4	ppm	0.66	No	5/18/07	Erosion of natural deposits; water additive which promotes strong teeth; discharge from fertilizer and aluminum factories
Mercury (inorganic)	2	2	ppb	<2.0	No	5/18/07	Erosion of natural deposits; discharge from refineries and factories; runoff from landfills; runoff from cropland
Nitrate (as Nitrogen)	10	10	ppm	1.2	No	6/16/211	Runoff from fertilizer use; leaching from septic tanks, sewage; erosion of natural deposits
Nitrite (as Nitrogen)	1	1	ppm	<0.1	No	6/2/6/07 5/18/07	Runoff from fertilizer use; leaching from septic tanks, sewage; erosion of natural deposits
Selenium	50	50	ppb	<2.0	No	5/18/07	Discharge from petroleum and metal refineries; erosion of natural deposits; discharge from mines
Thallium	2	0.5	ppb	<0.5	No	5/18/07	Leaching from ore-processing sites; discharge from electronics, glass, and drug factories
Turbidity	TT	N/A	NTU	0.78	No	6/28/06	Soil runoff

### Disinfectants and Disinfection Byproducts

Contaminant	MCL/ MRDL	MCLG/ MRDLG	Units	Average Level Detected & Range	Violation Yes or No	Sample Date	Likely Source of Contamination
Chlorine Residual	4	0	ppm	0.5 (0.4-0.8)	No	Running Annual Average - 2011	Water additive used to control microbes
Haloacetic Acids (HAA)	60	0	ppb	<2.0	No	Running Annual Average - 2011	By-product of drinking water disinfection
TTHM [Total trihalomethanes]	80	0	ppb	8.8	No	Running Annual Average - 2011	By-product of drinking water chlorination

### Synthetic Organic Contaminants, including Pesticides and Herbicides

Contaminant	MCL	MCLG	Units	Level Detected/Range	Violation Yes or No	Sample Date	Likely Source of Contamination
2,4-D	70	70	ppb	<0.1	No	7/5/07 and 9/23/07	Runoff from herbicide used on row crops
2,4,5-TP (Silvex)	50	50	ppb	<0.2	No	7/5/07 and 9/23/07	Residue of banned herbicide
Alachlor	2	0	ppb	<0.2	No	7/5/07 and 9/23/07	Runoff from herbicide used on row crops
Atrazine	3	3	ppb	<0.1	No	7/5/07 and 9/23/07	Runoff from herbicide used on row crops
Benzo (a) pyrene (PAH)	200	0	ppt	<20	No	7/5/07 and 9/23/07	Leaching from linings of water storage tanks and distribution lines
Carbofuran	40	40	ppb	<0.9	No	7/5/07 and 9/23/07	Leaching of soil fumigant used on rice and alfalfa
Chlordane	2	0	ppb	<0.2	No	7/5/07 and 9/23/07	Residue of banned termiticide
Dalapon	200	200	ppb	<1.0	No	7/5/07 and 9/23/07	Runoff from herbicide used on rights of way
Di (2-ethylhexyl) adipate	400	400	ppb	<0.6	No	7/5/07 and 9/23/07	Discharge from chemical factories
Di (2-ethylhexyl) phthalate	6	0	ppb	3.3 <0.6 to 3.3	No	7/5/07, 7/6/07 and 9/23/07	Discharge from rubber and chemical factories
Dibromochloropropane	200	0	ppt	<20	No	7/5/07 and 9/23/07	Runoff/leaching from soil fumigant used on soybeans, cotton, pineapples, and orchards
Dinoseb	7	7	ppb	<0.2	No	7/5/07 and 9/23/07	Runoff from herbicide used on soybeans and vegetables

Contaminant	MCL	MCLG	Units	Level Detected/Range	Violation Yes or No	Sample Date	Likely Source of Contamination
Diquat	20	20	ppb	<0.4	No	7/5/07 and 9/23/07	Runoff from herbicide use
Dioxin [2,3,7,8-TCDD]	30	0	ppq	<0.255	No	7/5/07 and 9/23/07	Emissions from waste incineration and other combustion; discharge from chemical factories
Endothall	100	100	ppb	<9.0	No	7/5/07 and 9/23/07	Runoff from herbicide use
Endrin	2	2	ppb	<0.01	No	7/5/07 and 9/23/07	Residue of banned insecticide
Ethylene dibromide	50	0	ppt	<10.0	No	7/5/07 and 9/23/07	Discharge from petroleum refineries
Glyphosate	700	700	ppb	<6.0	No	7/5/07 and 9/23/07	Runoff from herbicide use
Heptachlor	400	0	ppt	<40	No	7/5/07 and 9/23/07	Residue of banned temiticide
Heptachlor epoxide	200	0	ppt	<20	No	7/5/07 and 9/23/07	Breakdown of heptachlor
Hexachlorobenzene	1	0	ppb	<0.1	No	7/5/07 and 9/23/07	Discharge from metal refineries and agricultural chemical factories
Hexachlorocyclopentadiene	50	50	ppb	<0.1	No	7/5/07 and 9/23/07	Discharge from chemical factories
Lindane	200	200	ppt	<20	No	7/5/07 and 9/23/07	Runoff/leaching from insecticide used on cattle, lumber, gardens
Methoxychlor	40	40	ppb	<0.1	No	7/5/07 and 9/23/07	Runoff/leaching from insecticide used on fruits, vegetables, alfalfa, livestock
Oxamyl [Vydate]	200	200	ppb	<2.0	No	7/5/07 and 9/23/07	Runoff/leaching from insecticide used on apples, potatoes and tomatoes
PCBs [Polychlorinated biphenyls]	500	0	ppt	<100	No	7/5/07 and 9/23/07	Runoff from landfills; discharge of waste chemicals
Pentachlorophenol	1	0	ppb	0.71 <0.4 to 0.71	No	7/5/07, 7/6/07 and 9/23/07	Discharge from wood preserving factories
Picloram	500	500	ppb	<0.1	No	7/5/07 and 9/23/07	Herbicide runoff
Simazine	4	4	ppb	<0.07	No	7/5/07 and 9/23/07	Herbicide runoff
Toxaphene	3	0	ppb	<1.0	No	7/5/07 and 9/23/07	Runoff/leaching from insecticide used on cotton and cattle

### Volatile Organic Contaminants

Contaminant	MCL	MCLG	Units	Level Detected/Range	Violation Yes or No	Sample Date	Likely Source of Contamination
Benzene	5	0	ppb	<0.5	No	6/16/11	Discharge from factories; leaching from gas storage tanks and landfills
Carbon tetrachloride	5	0	ppb	<0.5	No	6/16/11	Discharge from chemical plants and other industrial activities
Chlorobenzene	100	100	ppb	<0.5	No	6/16/11	Discharge from chemical and agricultural chemical factories
o-Dichlorobenzene	600	600	ppb	<0.5	No	6/16/11	Discharge from industrial chemical factories
p-Dichlorobenzene	75	75	ppb	<0.5	No	6/16/11	Discharge from industrial chemical factories
1,2-Dichloroethane	5	0	ppb	<0.5	No	6/16/11	Discharge from industrial chemical factories
1,1-Dichloroethylene	7	7	ppb	<0.5	No	6/16/11	Discharge from industrial chemical factories
cis-1,2-Dichloroethylene	70	70	ppb	<0.5	No	6/16/11	Discharge from industrial chemical factories

Contaminant	MCL	MCLG	Units	Level Detected/ Range	Violation Yes or No	Sample Date	Likely Source of Contamination
trans-1,2-Dichloroethylene	100	100	ppb	<0.5	No	6/16/11	Discharge from industrial chemical factories
Dichloromethane	5	0	ppb	<0.5	No	6/16/11	Discharge from pharmaceutical and chemical factories
1,2-Dichloropropane	5	0	ppb	<0.5	No	6/16/11	Discharge from industrial chemical factories
Ethylbenzene	700	700	ppb	<0.5	No	6/16/11	Discharge from petroleum refineries
Styrene	100	100	ppb	<0.5	No	6/16/11	Discharge from rubber and plastic factories; leaching from landfills
Tetrachloroethylene	5	0	ppb	<0.5	No	6/16/11	Discharge from factories and dry cleaners
1,2,4-Trichlorobenzene	70	70	ppb	<0.5	No	6/16/11	Discharge from textile-finishing factories
1,1,1-Trichloroethane	200	200	ppb	<0.5	No	6/16/11	Discharge from metal degreasing sites and other factories
1,1,2-Trichloroethane	5	3	ppb	<0.5	No	6/16/11	Discharge from industrial chemical factories
Trichloroethylene	5	0	ppb	<0.5	No	6/16/11	Discharge from metal degreasing sites and other factories
Toluene	1	1	ppb	<0.5	No	6/16/11	Discharge from petroleum factories
Vinyl Chloride	2	0	ppb	<0.5	No	6/16/11	Leaching from PVC piping; discharge from chemical factories
Total Xylenes	10	10	ppb	<1.0	No	6/16/11	Discharge from petroleum factories; discharge from chemical factories

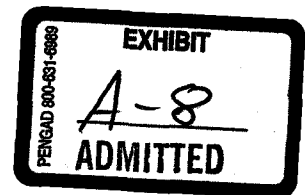
Unregulated contaminants are those for which EPA has not established drinking water standards. The purpose of unregulated contaminant monitoring is to assist EPA in determining the occurrence of unregulated contaminants in drinking water and whether future regulation is warranted.

#### Detected Unregulated Contaminants

Contaminant	MCL	MCLG	Units	Level Detected/ Range	Violation Yes or No	Sample Date	Likely Source of Contamination
Orthophosphate	N/A	N/A	ppm	<0.10	No	October 2010	An abundant & widespread constituent of soil and water from discharges and natural deposits.

There were no monitoring or reporting violations for monitoring year 2011 at Tierra Linda.

This year's CCR serves as notice that Public Notification pursuant to R18-4-105.F as been served to all customers of this public water system and to the State of Arizona, Department of Environmental Quality, May 2012.



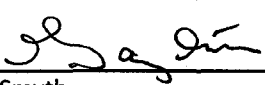
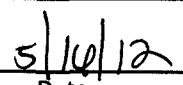
# PERSONAL FINANCIAL STATEMENT

Gary Smyth

May 16, 2012

Assets	Amount in Dollars
Cash - checking accounts	\$ 82,066
Certificates of deposit	-
Securities - stocks / bonds / mutual funds	80,000
Notes & contracts receivable	-
Life insurance ( <i>cash surrender value</i> )	10,000
Personal property ( <i>autos, jewelry, etc.</i> )	430,000
Retirement Funds ( <i>eg. IRAs, 401k</i> )	-
Real estate ( <i>market value of home</i> )	800,000
Real estate ( <i>other</i> )	2,111,509
Other assets ( <i>Business</i> )	2,807,063
Other assets ( <i>Water Companies</i> )	4,026,000
<b>Total Assets</b>	<b>\$ 10,346,638</b>

Liabilities	Amount in Dollars
Current Debt ( <i>Credit cards, Accounts</i> )	N/A
Notes payable ( <i>describe below</i> )	\$ 90,000
Taxes payable	N/A
Real estate mortgages ( <i>describe</i> )	N/A
Other liabilities ( <i>specify</i> )	N/A
Other liabilities ( <i>specify</i> )	N/A
<b>Total Liabilities</b>	<b>\$ 90,000</b>
<b>Net Worth</b>	<b>\$ 10,256,638</b>

	
Gary Smyth	Date

MEMORANDUM

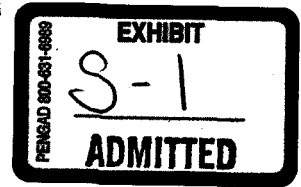
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AZ CORP COMMISSION  
DOCKET CONTROL

TO: Docket Control

FROM: Steven M. Olea  
Director  
Utilities Division

2012 APR 23 AM 10 54



Date: April 23, 2012

RE: **STAFF REPORT FOR IN THE MATTER OF (i) APPLICATION OF GARY SMYTH, AN INDIVIDUAL, TO TRANSFER WATER SYSTEM ASSETS AND CERTIFICATE OF CONVENIENCE AND NECESSITY TO TIERRA LINDA WATER COMPANY, INC.; AND (ii) THE APPLICATION OF TIERRA LINDA WATER COMPANY, INC. FOR AUTHORIZATION TO ISSUE STOCK TO ACQUIRE SAID WATER SYSTEM ASSETS AND CERTIFICATE OF CONVENIENCE AND NECESSITY.**  
(DOCKET NOS. W-20689A-11-0252 AND W-20810A-11-0252)

Attached is the Staff Report for Gary Smyth dba Tierra Linda Homeowners Association, Inc.'s Application for approval to transfer water system assets and Certificate of Convenience and Necessity to Tierra Linda Water Company, Inc. and the Application of Tierra Linda Water Company, Inc. for authorization to issue stock to acquire Gary Smyth's water system assets and Certificate of Convenience and Necessity. Staff is recommending approval with conditions.

SMO:BNC:tdp

Originator: Blessing Chukwu

RECEIVED

APR 23 2012

LEGAL DIV.  
ARIZ. CORPORATION COMMISSION

Service List for: Gary Smyth dba Tierra Linda Homeowners Association, Inc. and Tierra Linda Water Company, Inc.

Docket Nos. W-20689A-11-0252 and W-20810A-11-0252

Mr. Lawrence V. Robertson, Jr.

Post Office Box 1448

Tubac, Arizona 85646



STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION

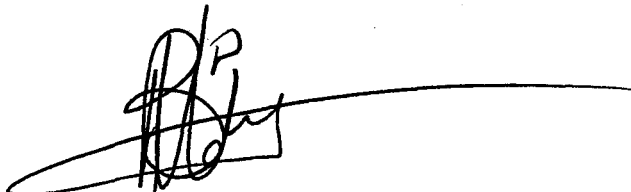
GARY SMYTH DBA TIERRA LINDA HOMEOWNERS ASSOCIATION, INC.  
AND  
TIERRA LINDA WATER COMPANY, INC.  
DOCKET NOS. W-20689A-11-0252 AND W-20810A-11-0252

APPLICATION FOR APPROVAL TO TRANSFER WATER SYSTEM ASSETS AND  
CERTIFICATE OF CONVENIENCE AND NECESSITY OF GARY SMYTH DBA TIERRA  
LINDA HOMEOWNERS ASSOCIATION, INC. TO TIERRA LINDA WATER COMPANY,  
INC. AND APPLICATION OF TIERRA LINDA WATER COMPANY, INC. FOR  
AUTHORIZATION TO ISSUE STOCK TO ACQUIRE GARY SMYTH'S WATER SYSTEM  
ASSETS AND CERTIFICATE OF CONVENIENCE AND NECESSITY


APRIL 23, 2012

## STAFF ACKNOWLEDGMENT

The Staff Report for Gary Smyth dba Tierra Linda Homeowners Association, Inc. and Tierra Linda Water Company, Inc. (Docket Nos. W-20689A-11-0252 and W-20810A-11-0252) was the responsibility of the Staff members signed below. Blessing Chukwu was responsible for the review and analysis of the Company's application. Del Smith was responsible for the engineering and technical analysis. Brendan C. Aladi was responsible for the financial analysis.

A handwritten signature in black ink, appearing to be 'B. Chukwu', with a long horizontal line extending to the right.

Blessing Chukwu  
Executive Consultant

A handwritten signature in black ink, appearing to be 'Del W. Smith', with a horizontal line extending to the right.

Del Smith  
Engineering Supervisor

A handwritten signature in black ink, appearing to be 'Brendan C. Aladi', with a horizontal line extending to the right.

Brendan C. Aladi  
Public Utilities Analyst III

**EXECUTIVE SUMMARY**  
**GARY SMYTH**  
**DBA TIERRA LINDA HOMEOWNERS ASSOCIATION, INC. AND**  
**TIERRA LINDA WATER COMPANY, INC.**  
**DOCKET NOS. W-20689A-11-0252 AND W-20810A-11-0252**

On June 24, 2011, Gary Smyth ("Smyth" or "Transferor")), an individual, dba Tierra Linda Homeowners Association, Inc. ("HOA" or "Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") for approval to transfer water system assets and Certificate of Convenience and Necessity ("CC&N") to Tierra Linda Water Company, Inc. ("Tierra Linda" or "Transferee" and together with Mr. Smyth, the "Applicants"), in Pima County, Arizona. In the same application, Tierra Linda requested Commission authorization to issue stock to acquire Mr. Smyth's water system assets and CC&N ("the Application). On February 28, 2012, Staff filed a Sufficiency Letter indicating that the Application had met the sufficiency requirements of the Arizona Administrative Code.

Staff recommends the Commission approve Gary Smyth's application for approval to transfer water system assets and CC&N to Tierra Linda Water Company, Inc. and the Application of Tierra Linda Water Company, Inc. for authorization to issue stock to acquire Gary Smyth's water system assets and CC&N, within portions of Pima County, Arizona, subject to compliance with the following conditions:

1. That Tierra Linda be required to charge the authorized rates and charges in the transfer area.
2. That Tierra Linda file all pertinent documents evidencing the consummation of this transaction, no later than 30 days from the effective date of transaction, with the Utilities Division Compliance Section and file a letter in Docket Control stating that such documents have been filed with the Compliance Section.
3. That Tierra Linda be required to implement the water loss reduction plan filed in compliance with Decision No. 72002. The water loss should be reduced to less than ten percent by June 30, 2013. To verify this, Tierra Linda shall, by July 31, 2013, as a compliance item in this docket, file documentation which demonstrates that its water loss for the proceeding 12 month period is less than the ten percent threshold. This filing should include a completed water use data sheet for the period of July 1, 2012 through June 30, 2013, to include the monthly water loss data and the calculation of the water loss percentage.

Staff further recommends that the Commission's Decision granting the approval to transfer water system assets and CC&N to Tierra Linda Water Company, Inc. and the authorization to issue stock to acquire Gary Smyth's water system assets and CC&N be considered null and void, after due process, should Tierra Linda and Mr. Smyth fail to meet Condition Nos. 2 and 3 listed above within the specified time.

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## INTRODUCTION

On June 24, 2011, Gary Smyth ("Smyth" or "Transferor"), an individual, dba Tierra Linda Homeowners Association, Inc. ("HOA" or "Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") for approval to transfer water system assets and Certificate of Convenience and Necessity ("CC&N") to Tierra Linda Water Company, Inc. ("Tierra Linda" or "Transferee" and together with Mr. Smyth, the "Applicants"), in Pima County, Arizona. In the same application, Tierra Linda requested Commission authorization to issue stock to acquire Mr. Smyth's water system assets and CC&N ("the Application")

On February 28, 2012, Staff filed a Sufficiency Letter indicating that the Application had met the sufficiency requirements of the Arizona Administrative Code ("A.A.C.").

## BACKGROUND

Mr. Smyth, an individual, dba Tierra Linda Homeowners Association, Inc. filed an application with Commission for approval to transfer the water system assets and CC&N which were the subject of Commission Decision No. 72002<sup>1</sup>, to Tierra Linda. Decision No. 72002 authorized Mr. Smyth to acquire the water system assets and CC&N previously owned by the HOA. The subject water system assets and CC&N are located in the vicinity of Tierra Linda Nueva Subdivision, approximately ten miles southwest of Marana, in Pima County, Arizona. Mr. Smyth reported 63 metered water connections in the Company's 2010 Commission Annual Report. The CC&N covers an area of roughly 200 acres (approximately three-tenths of one square mile) in the northwest quarter of Section 29 in Township 12 South, Range 11 East. As currently platted, the certificated service area has the potential for a total of 190 residential metered water connections.

Mr. Smyth owns and operates Smyth Steel. Smyth Steel provides construction and installation services to water utility companies in Arizona.<sup>2</sup> Smyth constructed and installed the subject water system. According to Commission record, in 2008, Mr. Smyth acquired Cayetano Inc. dba Lakewood Water Company which is regulated by the Commission; and in July 2009, Mr. Smyth formed Smyth Utility Management which provides utility operating and management service to small and medium sized water and wastewater utilities in southern Arizona.

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<sup>1</sup> Decision No. 72002 became effective on December 10, 2010.

<sup>2</sup> Services provided include, among other things, the construction and installation of storage and pressure tanks, booster stations, arsenic treatment facilities and piping. (See Docket No. W-20689A-09-0327 and W-04236A-09-0327)

## THE WATER SYSTEM

The Company's water system consists of one well (Pump Yield 200 gallons per minute), one 400,000 gallon storage tank, three booster pumps (one 50 horsepower ("HP") and two 10 HP), one 5,000 gallon pressure tank and a distribution system serving 63 metered connections.<sup>3</sup> Staff concludes that the Company's water system has adequate production and storage capacity to serve existing customers and reasonable growth.

## THE TRANSACTION

Mr. Smyth formed Tierra Linda, a new corporation, to ultimately own and operate the water system assets he acquired from the HOA pursuant to Decision No. 72002.<sup>4</sup> Mr. Smyth's application herein is intended to achieve that result. Legal counsel for the Company concluded that the water system assets and the CC&N could not be transferred directly from the HOA to Tierra Linda and the assets and the CC&N would first have to be transferred to Mr. Smyth.

On April 18, 2011, the Commission approved Tierra Linda Articles of Incorporation, which established Mr. Smyth as the Director and the President and also authorized the issuance of up to 1,000 shares of common stock. Tierra Linda now requests to issue 501 shares of common stock to Mr. Smyth as consideration for his transfer of the water system assets and CC&N, thereby establishing Mr. Smyth's control of Tierra Linda. This transaction would complete Mr. Smyth's stated intent of ultimately operating the utility under an S-corporation structure.

There are no anticipated changes to the operation and maintenance of the Tierra Linda water system if the proposed transfer is approved. Christopher Hill, Arizona Department of Environmental Quality ("ADEQ") Certified Operator No. OP008883, will continue as the certified operator of the water system. Mr. Hill is a Grade 4 water distribution system and water treatment plant operator.

According to the Applicants, customer security deposits; refunds due on meter and service line installations; and all refunds due on Main Line Extension Agreements will be assumed by Tierra Linda subject to the Commission granting the relief requested in the Application.

## NON-ACCOUNT WATER

Non-Account water for the HOA water system slightly exceeded Staff's recommended ten percent threshold in 2009. Therefore, Decision No. 72002 ordered Mr. Smyth upon transfer to coordinate the reading of the well meter and individual customer meters on a monthly basis and report this data in the Company's Commission Annual Report filed for the year ending 2010.

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<sup>3</sup> Water company plant description data reported in 2010 Commission Annual Report.

<sup>4</sup> Smyth concluded that he preferred to own and operate the water system assets in question through an "S" corporation structure.

If the reported water loss was greater than ten percent Mr. Smyth was ordered to prepare a report containing a detailed analysis and plan to reduce water loss to less than ten percent.

#### **ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY COMPLIANCE**

ADEQ regulates the Company's water system under ADEQ Public Water System I.D. No. 10-411. The Company has no major deficiencies and is delivering water that meets water quality standards required by 40 CFR 141/Arizona Administrative Code, Title 18, Chapter 4.<sup>5</sup>

#### **ARIZONA DEPARTMENT OF WATER RESOURCES ("ADWR") COMPLIANCE**

The Company's CC&N is located within the Tucson Active Management Area. ADWR has determined that the Company is currently in compliance with departmental requirements governing water providers and/or community water systems.<sup>6</sup>

#### **FINANCIAL ANALYSIS**

Mr. Smyth originally acquired the water system assets from the HOA for \$70,000. Tierra Linda provided Staff with a list of the utility assets to be transferred under this transaction and the historic net book value of the plant in service was approximately \$864,106 as of December 31, 2010. Mr. Smyth now proposes to transfer those utility assets and the CC&N to Tierra Linda in exchange for 501 shares of its common stock.

In Decision No. 72002, which approved the original sale to Mr. Smyth, the Commission determined that Mr. Smyth had demonstrated "that he has adequate financial resources to operate, maintain and expand the system."<sup>7</sup> Under the proposed transaction, Mr. Smyth would become the sole shareholder and owner of Tierra Linda.

Staff also notes that the HOA was granted a CC&N in Decision No. 67104, on July 9, 2004, but it never filed for a rate case and so the actual rate base has never been established for this utility. Therefore, the Commission will require that appropriate proof of all historic capital expenditures be provided with Tierra Linda's next rate case application.

#### **ACC COMPLIANCE**

A check of the Compliance Database indicates that there are currently no delinquencies for the Company and that the Company has substantially met the compliance obligations contained in Docket Nos. W-20689A-09-0327 and W-04236A-09-0327 (and Decision No. 72002).<sup>8</sup> Staff however remains concerned since currently available water loss data indicates the water system continues to experience water loss which exceeds Staff's recommended ten percent

<sup>5</sup> Per ADEQ Compliance Status Report, dated July 27, 2011,

<sup>6</sup> Per ADWR Water Provider Compliance Status Report dated July 6, 2011.

<sup>7</sup> Finding of Fact No. 23 at 4:5-6.

<sup>8</sup> Per Compliance Section email dated July 12, 2011.

threshold. Therefore, Staff recommends the following water loss compliance requirements in the pending dockets.

As a result of Decision No. 72002, on February 10, 2012, the Company docketed a plan to reduce its water loss to less than ten percent. Staff recommends that the Company implement its water loss reduction plan filed in compliance with Decision No. 72002.

Staff further recommends that the Company reduce water loss to less than ten percent by June 30, 2013. To verify this, the Company shall, by July 31, 2013, as a compliance item in this docket, file documentation which demonstrates that the Company's water loss for the proceeding 12 month period is less than the ten percent threshold. This filing should include a completed water use data sheet for the period of July 1, 2012 through June 30, 2013, to include the monthly water loss data and the calculation of the water loss percentage.

#### **CURTAILMENT PLAN TARIFF**

The Company has an approved curtailment tariff on file with the Commission.

#### **BACKFLOW PREVENTION TARIFF**

The Company has an approved Backflow Prevention tariff on file with the Commission.

#### **PROPOSED RATES**

Upon the acquisition of the Company's assets, the customers in the affected CC&N area will be charged the Company's existing rates for water.

#### **FRANCHISE**

Every applicant for a CC&N and/or CC&N extension is required to submit to the Commission evidence showing that the applicant has received the required consent, franchise or permit from the proper authority, pursuant to Arizona Revised Statute § 40-282.B. If the applicant operates in an unincorporated area, the Applicant has to obtain the franchise from the County. If the applicant operates in an incorporated area of the County, the applicant has to obtain the franchise from the City/Town.

Tierra Linda filed, in the docket, a copy of the franchise agreement it had entered into with Pima County.

#### **PUBLIC NOTICE**

On March 28, 2012, Tierra Linda docketed its *Affidavit of Mailing* showing that its customers of record were noticed of this filing through a bill insert, mailed on March 7, 2012.



## RECOMMENDATIONS

Staff recommends the Commission approve Gary Smyth's application for approval to transfer water system assets and CC&N to Tierra Linda Water Company, Inc. and the Application of Tierra Linda Water Company, Inc. for authorization to issue stock to acquire Gary Smyth's water system assets and CC&N, within portions of Pima County, Arizona, subject to compliance with the following conditions:


1. That Tierra Linda be required to charge the authorized rates and charges in the transfer area.
2. That Tierra Linda file all pertinent documents evidencing the consummation of this transaction, no later than 30 days from the effective date of transaction, with the Utilities Division Compliance Section and file a letter in Docket Control stating that such documents have been filed with the Compliance Section.
3. That Tierra Linda be required to implement the water loss reduction plan filed in compliance with Decision No. 72002, on February 10, 2012. The water loss should be reduced to less than ten percent by June 30, 2013. To verify this, Tierra Linda shall, by July 31, 2013, as a compliance item in this docket, file documentation which demonstrates that its water loss for the proceeding 12 month period is less than the ten percent threshold. This filing should include a completed water use data sheet for the period of July 1, 2012 through June 30, 2013, to include the monthly water loss data and the calculation of the water loss percentage.

Staff further recommends that the Commission's Decision granting the approval to transfer water system assets and CC&N to Tierra Linda Water Company, Inc. and the authorization to issue stock to acquire Gary Smyth's water system assets and CC&N be considered null and void, after due process, should Tierra Linda and Mr. Smyth fail to meet Condition Nos. 2 and 3 listed above within the specified time.

**MEMORANDUM**

DATE: February 14, 2012

TO: Blessing Chukwu  
Executive Consultant

FROM: Del Smith   
Engineering Supervisor

RE: Gary Smyth dba Tierra Linda Homeowners Association, Inc. application for authorization to transfer water system assets and certificate of convenience and necessity to Tierra Linda Water Company, Inc. (Docket Nos. W-20689A-11-0252 and W-20810A-11-0252)

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**Introduction**

On June 24, 2011, Gary Smyth ("Smyth"), an individual, dba Tierra Linda Homeowners Association, Inc. ("the Company"), filed an application with the Arizona Corporation Commission ("ACC" or "Commission") for authorization to transfer the water system assets and certificate of convenience and necessity ("CC&N") which were the subject of Commission Decision No. 72002<sup>1</sup>, to Tierra Linda Water Company, Inc. ("Tierra Linda"). Commission Decision No. 72002 authorized Smyth to acquire the water system assets and CC&N previously owned by Tierra Linda Homeowners Association, Inc. ("Tierra Linda HOA"). The subject water system assets and CC&N are located approximately ten miles southwest of Marana, in Pima County, Arizona. Smyth reported 63 metered water connections in the Company's 2010 Commission Annual Report. The CC&N covers an area of roughly 200 acres (approximately three-tenths of one square mile) in the northwest quarter of Section 29 in Township 12 South, Range 11 East. As currently platted, the certificated service area has the potential for a total of 190 residential metered water connections.

**Reason Given for the Proposed Transfer to Tierra Linda**

Smyth has formed a new corporation to ultimately own and operate the water system assets he acquired from Tierra Linda HOA pursuant to Decision No. 72002.<sup>2</sup> Smyth's application herein is intended to achieve that result. Legal counsel for the Company concluded that the water system assets and the CC&N could not be transferred directly from the Tierra Linda HOA to Tierra Linda and the assets and the CC&N would first have to be transferred to Smyth. There are no anticipated changes to the operation and maintenance of the Tierra Linda water system if the proposed transfer is approved.

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<sup>1</sup> Decision No. 72002 became effective on December 10, 2010.

<sup>2</sup> Smyth concluded that he preferred to own and operate the water system assets in question through an "S" corporation structure.

### **Water System Operation**

The Company's water system consists of one well (Pump Yield 200 gallons per minute), one 400,000 gallon storage tank, three booster pumps (one 50 horsepower ("HP") and two 10 HP), one 5,000 gallon pressure tank and a distribution system serving 63 metered connections.<sup>3</sup> Commission Utilities Division Staff ("Staff") concludes that the Company's water system has adequate production and storage capacity to serve existing customers and reasonable growth. Christopher Hill, Arizona Department of Environmental Quality ("ADEQ") Certified Operator No. OP008883, will continue as the certified operator of the water system. Mr. Hill is a Grade 4 water distribution system and water treatment plant operator.

### **Background Non-Account Water**

Non-Account water for the Tierra Linda HOA water system slightly exceeded Staff's recommended ten percent threshold in 2009. Therefore, Decision No. 72002 ordered Smyth upon transfer to coordinate the reading of the well meter and individual customer meters on a monthly basis and report this data in the Company's Commission Annual Report filed for the year ending 2010. If the reported water loss was greater than ten percent Smyth was ordered to prepare a report containing a detailed analysis and plan to reduce water loss to less than ten percent. As a result of Decision No. 72002, on February 10, 2012, the Company docketed a plan to reduce its water loss to less than ten percent. Staff recommends that the Company implement its water loss reduction plan filed in compliance with Decision No. 72002.

### **ACC Compliance**

A check of the Compliance Database indicates that there are currently no delinquencies for the Company and that the Company has substantially met the compliance obligations contained in Docket Nos. W-20689A-09-0327 and W-04236A-09-0327 (and Decision No. 72002).<sup>4</sup> Staff however remains concerned since currently available water loss data indicates the water system continues to experience water loss which exceeds Staff's recommended ten percent threshold. Therefore, Staff further recommends that the Company reduce water loss to less than ten percent by June 30, 2013. To verify this, the Company shall, by July 31, 2013, as a compliance item in this docket, file documentation which demonstrates that the Company's water loss for the proceeding 12 month period is less than the ten percent threshold. This filing should include a completed water use data sheet for the period of July 1, 2012 through June 30, 2013, to include the monthly water loss data and the calculation of the water loss percentage.

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<sup>3</sup> Water company plant description data reported in 2010 Commission Annual Report.

<sup>4</sup> Per Compliance Section email dated July 12, 2011.

### **ADEQ Compliance**

ADEQ regulates the Company's water system under ADEQ Public Water System I.D. No. 10-411. The Company has no major deficiencies and is delivering water that meets water quality standards required by 40 CFR 141/Arizona Administrative Code, Title 18, Chapter 4.<sup>5</sup>

### **Arizona Department of Water Resources ("ADWR") Compliance**

The Company's CC&N is located within the Tucson Active Management Area. ADWR has determined that the Company is currently in compliance with departmental requirements governing water providers and/or community water systems.<sup>6</sup>

### **Summary**

### **Conclusions**

1. Christopher Hill, ADEQ Certified Operator No. OP008883, will continue as the certified operator of the water system. Mr. Hill is a Grade 4 water distribution system and water treatment plant operator. Staff concludes that Tierra Linda has the knowledge and technical means to operate and expand the water system.
2. Staff concludes that the water system has adequate production and storage capacity to serve existing customers and reasonable growth.
3. The Company has no major deficiencies and is delivering water that meets water quality standards required by 40 CFR 141/Arizona Administrative Code, Title 18, Chapter 4.
4. ADWR has determined that the Company is currently in compliance with departmental requirements governing water providers and/or community water systems.
5. A check of the Utilities Division compliance database indicated that there are currently no delinquent compliance items for the Company.

### **Recommendations**

1. Staff recommends that the Company implement its water loss reduction plan filed in compliance with Decision No. 72002 on February 10, 2012. Staff further recommends that the Company reduce water loss to less than ten percent by June 30, 2013. To verify this, the Company shall, by July 31, 2013, as a compliance

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<sup>5</sup> Per ADEQ Compliance Status Report, dated July 27, 2011,

<sup>6</sup> Per ADWR Water Provider Compliance Status Report dated July 6, 2011.

item in this docket, file documentation which demonstrates that the Company's water loss for the proceeding 12 month period is less than the ten percent threshold. This filing should include a completed water use data sheet for the period of July 1, 2012 through June 30, 2013, to include the monthly water loss data and the calculation of the water loss percentage.

MEMORANDUM

TO: Blessing Chukwu  
Executive Consultant  
Utilities Division

FROM: Brendan C. Aladi *BCA*  
Public Utilities Analyst  
Financial and Regulatory Analysis Section  
Utilities Division

DATE April 12, 2012

IN THE MATTER OF (i) APPLICATION OF GARY SMYTH, AN INDIVIDUAL, TO TRANSFER WATER SYSTEM ASSETS AND CERTIFICATE OF CONVENIENCE AND NECESSITY TO TIERRA LINDA WATER COMPANY, INC.; AND (ii) THE APPLICATION OF TIERRA LINDA WATER COMPANY, INC. FOR AUTHORIZATION TO ISSUE STOCK TO ACQUIRE SAID WATER SYSTEM ASSETS AND CERTIFICATE OF CONVENIENCE AND NECESSITY.  
(DOCKET NOS. W-20689A-11-0252 AND W-20810A-11-0252)

**INTRODUCTION**

On June 24, 2011, Gary Smyth filed an application with the Arizona Corporation Commission ("Commission") for approval to transfer the water system assets and Certificate of Convenience and Necessity ("CC&N") to Tierra Linda Water Company, Inc. ("Tierra Linda" or "Company"). In addition, Tierra Linda requests Commission authorization to issue stock to acquire the water system assets and the CC&N. The water system currently serves about 63 customers based on rates and charges approved in Decision No. 67104, dated July 9, 2004.

Mr. Smyth, an individual, was authorized to acquire the water system assets and CC&N from the Tierra Linda Homeowners Association, Inc. ("HOA") pursuant to Decision No. 72002, issued December 10, 2010. According to the HOA, it sold the water system because it believed that management by a regulated private company with the financial resources to operate and upgrade the system would be in the best interest of the HOA membership. Mr. Smyth states that, shortly after the issuance of Decision No. 72002, he determined that he would prefer to operate the water system through an S-corporation structure. However, at that point he could not effect the transfer directly and had to first transfer the assets from the HOA to him as an individual. Consequently, Tierra Linda was formed and, on April 18, 2011, the Commission approved its Articles of Incorporation, which established Mr. Smyth as the Director and the President and also authorized the issuance of up to 1,000 shares of common stock. Tierra Linda now requests to

issue 501 shares of common stock to Mr. Smyth as consideration for his transfer of the water system assets and CC&N.

## **PUBLIC NOTICE**

On March 28, 2012, the Company docketed its *Affidavit of Mailing* showing that its customers of record were noticed of this filing through a bill insert, mailed on March 7, 2012.

## **THE TRANSACTION**

Mr. Smyth, an individual, seeks Commission authorization to sell and transfer to Tierra Linda the utility assets and CC&N that he recently acquired from the HOA under Decision No. 72002. Tierra Linda seeks authorization to issue 501 shares of its common stock to Mr. Smyth as consideration for that sale and transfer, thereby establishing Mr. Smyth's control of the Company. This transaction would complete Mr. Smyth's stated intent of ultimately operating the utility under an S-corporation structure.

## **FINANCIAL ANALYSIS**

Mr. Smyth originally acquired the water system assets from the HOA for \$70,000. Tierra Linda provided Staff with a list of the utility assets to be transferred under this transaction and the historic net book value of the plant in service was approximately \$864,106 as of December 31, 2010. Mr. Smyth now proposes to transfer those utility assets and the CC&N to Tierra Linda in exchange for 501 shares of its common stock.

In Decision No. 72002, which approved the original sale to Smyth, the Commission determined that Smyth had demonstrated "that he has adequate financial resources to operate, maintain and expand the system."<sup>1</sup> Under the proposed transaction, Smyth would become the sole shareholder and owner of the Company.

Staff also notes that the HOA was granted a CC&N in Decision No. 67104 on July 9, 2004, but it never filed for a rate case and so the actual rate base has never been established for this utility. Therefore, the Commission will require that appropriate proof of all historic capital expenditures be provided with the Company's next rate case application.

## **STAFF'S RECOMMENDATIONS**

Staff recommends:

1. That the Commission approve Gary Smyth's request for the transfer of utility assets to Tierra Linda.

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<sup>1</sup> Finding of Fact No. 23 at 4:5-6.

2. That the Commission approve Tierra Linda's request for authorization to issue 501 shares of Tierra Linda's authorized 1,000 shares of common stock to Gary Smyth as consideration for the water system assets to be transferred to Tierra Linda.
3. That the Commission authorize Gary Smyth and Tierra Linda to engage in any transactions and to execute or cause to be executed any documents so as to effectuate the authorizations requested with the application.
4. That Tierra Linda file all pertinent documents evidencing the consummation of this transaction, no later than 30 days from the effective date of transaction, with the Utilities Division Compliance Section and file a letter in Docket Control stating that such documents have been filed with the Compliance Section.



**MEMORANDUM**

TO: Blessing Chukwu  
Executive Consultant III  
Utilities Division

FROM: Lori H. Miller *lhm*  
Programs and Projects Specialist II  
Utilities Division

THRU: Del Smith *DS*  
Engineering Supervisor  
Utilities Division

DATE: August 2, 2011

RE: **GARY SMYTH dba TIERRA LINDA HOMEOWNERS ASSOCIATION, INC. (DOCKET NO. W-20689A-11-0252)**  
**TIERRA LINDA WATER COMPANY, INC. (DOCKET NO. W-20810A-11-0252)**

Gary Smyth dba Tierra Linda Homeowners Association, Inc. has filed an application to transfer its CC&N to Tierra Linda Water Company, Inc.

Attached is a copy of the map for your files.

/lhm

Attachment

cc: Mr. Lawrence V. Robertson, Jr.  
Mr. Gary Smyth  
Ms. Deb Person (Hand Carried)  
Mr. Del Smith  
File

PIMA COUNTY

RANGE 11 East

TOWNSHIP 12 South

06	05	04	03	02	01
07	08	09	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

W-02126A (2)

Avra Water Cooperative, Inc.

W-20689A (1)

Gary Smyth

dba Tierra Linda Homeowners Association, Inc.

Gary Smyth dba

Tierra Linda Homeowners Association, Inc.

Docket No. W-20689A-11-0252

Application to Sell Assets & Transfer to

Tierra Linda Water Company, Inc.

Docket No. W-20810A-11-0252